POWERSECURE INTERNATIONAL, INC.
Form 4
March 22, 2012

FORM 4

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
HUTTER CHRISTOPHER T

(Last) (First) (Middle)

1609 HERITAGE COMMERCE COURT

(Street)

WAKE FOREST, NC 27587

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
POWERSECURE INTERNATIONAL, INC. [POWR]

3. Date of Earliest Transaction (Month/Day/Year)
03/08/2012

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

_____ Director _____ 10% Owner
__X__ Officer (give title below) _____ Other (specify below)
EVP, CFO

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	03/08/2012		F		811 (1)	D	$ 6.08 (2)	22,412	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(*e.g.*, puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Nu Deriv Secur Bene Owne Follo Repo Trans (Instr
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares		

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
HUTTER CHRISTOPHER T 1609 HERITAGE COMMERCE COURT WAKE FOREST, NC 27587			EVP, CFO	

Signatures

/s/ Christopher T. Hutter	03/22/2012
**Signature of Reporting Person	Date

Explanation of Responses:

* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) Represents shares withheld for tax purposes out of the tranche of 2,500 restricted shares that vested on this date.

(2) Represents the last sale price of the Common Stock on this date as reported on The NASDAQ Global Select Market.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. ight, the times at which each option or stock appreciation right will be exercisable, and provisions requiring forfeiture of unexercised options or stock appreciation rights at or following termination of employment generally are fixed by the board of directors or committee of the Company's board of directors designated to administer the 2009 Plan (the "committee"), except that no option or stock appreciation right may have a term exceeding ten years. The exercise price per share subject to an option and the grant price of a stock appreciation rights are determined by the committee, but in the case of an incentive stock option (ISO) must not be less than the fair market value of a share of common stock on the date of grant.

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On May 15, 2009, the Company granted to one board member and one executive officer options to purchase an aggregate of 8,436,000 shares of common stock with an exercise price of $0.04 per share for a total fair value of approximately $158,000 under a previously approved option plan.

On May 20, 2009, the Company granted to one board member, employees and consultants options to purchase an aggregate of 16,250,000 shares of common stock with an exercise price of $0.10 per share for a total fair value of approximately $936,000 under a previously approved option plan, including 7,000,000 options granted pursuant to consulting agreements with certain related parties. See Note 10.

On May 20, 2009, the Company granted an executive officer options to purchase an aggregate of 5,000,000 shares of common stock with an exercise price of $0.11 for a total fair value of $237,000 under a previously approved option plan.

On November 11, 2009, the Company granted one board member, one executive officer and one employee options to purchase an aggregate of 5,100,000 shares of common stock with an exercise price of $0.125 for a total fair value of $316,000 under a previously approved option plan.

As of December 31, 2009, stock options to purchase up to 30,286,000 shares of common stock have been awarded under the 2009 Plan and prior plans, with exercise prices ranging from $0.04 to $0.125 per share, of which 4,718,000 are exercisable. These grants were valued at approximately $1,296,000, of which $1,036,000 remains unamortized as of December 31, 2009; such amount is being amortized on a straight-line basis over three years. The weighted average grant-date fair value of options issued during the year ended December 31, 2009 was $0.07.

Details of the options outstanding under all plans are as follows:

	Shares	Weighted Average Exercise Price ($)	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value
Options outstanding at January 1, 2008	--	-		-
Granted	-	-		-
Expired	-	-		
Cancelled	-	-		-
Exercised	-	-		-
Options outstanding at January 1, 2009	-	-		-
Assumed in exchange	689,500	$ 0.14	-	-
Granted	34,786,000	$ 0.09	-	-
Expired	-	-	-	-
Canceled	(5,035,500)	-	-	-
Exercised	(154,000)	$ 0.08	-	$ 111,736
Options outstanding at December 31, 2009	30,286,000	$ 0.09	7.48	$ 336,000
Options exercisable at December 31, 2009	4,718,000	$ 0.05	4.02	$ 45,000

Range of Exercise	Number Outstanding	Weighted Average Remaining Years of Contractual	Weighted Average Exercise Price	Number Exercisable	Weighted Average Exercise Price

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$0.00 – 0.10	8,436,000	6.87	$	0.04	4,218,000	$	0.04
$0.10 – 0.25	21,850,000	7.71	$	0.11	500,000	$	0.11
$0.00 – $0.25	30,286,000	7.48	$	0.09	4,718,000	$	0.05

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Explanation of Responses:

Warrants

Details of outstanding warrants are as follows:

	Shares	Weighted Average Exercise Price ($)	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value
Warrants outstanding at January 1, 2008	-	-	-	-
Granted	-	-	-	-
Expired	-	-	-	-
Exercised	-	-	-	-
Warrants outstanding at January 1, 2009	-	-		-
Assumed in exchange	275,000	$ 0.05		-
Granted	14,318,197	0.06	-	-
Expired	(7,190,364)	0.06	-	-
Exercised	(1,152,833)	0.01	-	-
Warrants outstanding at December 31, 2009	6,250,000	$ 0.08	4.96	$ 62,500

7. Commitments

Operating Leases

The Company occupies approximately 16,000 square feet of office and storage space under a Commercial Sublease Agreement with 100 Commerce Boulevard LLC, a related party (see Note 10). The sublease has a current monthly rental rate of $9,417(as amended) through March 31, 2011, the expiration date. The annual obligation under the sublease is $113,004 in the year ended December 31, 2010 and $28,251 in the year ending December 31, 2011. During the years ended December 31, 2009 and 2008, the Company recorded rent expense of $93,750 and $16,700, respectively.

8. Contingent Liabilities

On or about January 15, 2010, the Company's former outside counsel, Duval & Stachenfeld LLP(“Duval”), commenced litigation against the Company in federal court in New York, New York asserting that the Company owes Duval $213,887 in unpaid legal fees. Duval is also seeking to recover interest and its fees in connection with the litigation. The Company has denied that it owes Duval the amount sought and has filed an answer to the complaint and asserted counterclaims against Duval for malpractice, breach of contract, and breach of the covenant of good faith and fair dealing. The litigation is in its early stages, and the Company is vigorously asserting its claims and defenses. The Company has accounted for this action in accordance with ASC 450. Legal fees relating to this action are being expensed as incurred.

In the normal course of business the Company may be involved in legal proceedings, claims and assessments arising in the ordinary course of business. Such matters are subject to many uncertainties, and outcomes are not predictable with assurance. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company’s business financial position or results of operations.

9. Concentrations

The Company maintains deposits in a financial institution which is insured by the Federal Deposit Insurance Corporation ("FDIC"). At various times, the Company has deposits in this financial institution in excess of the amount insured by the FDIC.

As of December 31, 2009, a substantial portion of the Company's accounts receivable related to three customers, which comprise approximately 42.7%, 32.2%, 13.1% of the total accounts receivable,respectively.

10. Related Party Transactions

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Lalit Dhadphale, the Company's President and Chief Executive Officer, and Cape Bear Partners LLC, a 10% or greater stockholder, have guaranteed the Company's obligations under certain convertible promissory notes with a principal value of $1,200,000. The guarantees state that Mr. Dhadphale and Cape Bear Partners LLC each guarantee the full payment of principal and interest under the notes. The guarantees terminate with respect to each note upon the earlier of repayment of principal and interest under each note or conversion of the note to equity. In the event of note conversion, the guarantees remain in place with respect to any interest due and unpaid through the date of conversion until that interest has been paid. The aggregate maximum exposure of Mr. Dhadphale and Cape Bear Partners LLC pursuant to the guarantees is a principal amount of $1,200,000 plus interest. During the quarter ended December 31, 2009 convertible promissory notes with a principal value of $575,000 were converted into 7,597,232 common shares of stock reducing Mr. Dhadphale's exposure. On December 15, 2009, the Company borrowed $515,000 from HWH Lending, LLC, which Mr. Dhadphale guaranteed the Company's obligation under this agreement.

The Company occupies approximately 16,000 square feet of office and storage space under a Commercial Sublease Agreement with 100 Commerce Boulevard LLC, an entity controlled by Jason Smith. Mr. Smith is also the Manager of Rock Castle Holdings, LLC, a 10% or greater stockholder in the Company. Mr. Smith is the son of the controlling stockholder of Masters Pharmaceutical, Inc., one of the Company's principal suppliers from whom the Company purchased $1,342,997 and $1,033,623 of supplies during the years ended December 31, 2009 and 2008, respectively, representing approximately 45.6% and 92.4% of total purchases. For the years ended December 31, 2009 and 2008 the Company had sales to Masters Pharmaceuticals of $230,628 and $65,682, respectively. As of December 31, 2009 and 2008, the Company had amounts due to Masters Pharmaceuticals in the amount of $73,254 and $380,279.

The Company is also a party to oral consulting with Mr. Smith and Rock Castle Holdings LLC, relating to certain purchasing and advising services. Pursuant to these agreements, the Company granted certain stock options to these related parties. See Note 7.

Ron Ferguson, a former Hwareh.com director, has guaranteed the Company's obligations to supplier Prescription Supply Inc. Mr. Ferguson is the spouse of Diane Ferguson, a stockholder of the Company. The guarantee, and Mr. Ferguson's maximum exposure under the guarantee, does not have a fixed dollar limit. As of December 31, 2009 and 2008, there was $6,172 and zero due to Prescription Supply Inc., respectively.

11. Income Taxes

The Company adopted the provisions of ASC Topic 740-10 (prior authoritative literature: FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109). ASC 740-10 prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more likely than not to be sustained upon examination by taxing authorities. Differences between tax positions taken or expected to be taken in a tax return and the benefit recognized and measured pursuant to the interpretation are referred to as "unrecognized benefits." A liability is recognized (or amount of net operating loss carry forward or amount of tax refundable is reduced) for an unrecognized tax benefit because it represents an enterprise's potential future obligation to the taxing authority for a tax position that was not recognized as a result of applying the provisions of ASC 740-10.

In accordance with ASC 740-10, interest costs related to unrecognized tax benefits are required to be calculated (if applicable) and would be classified as "Interest expense" in the consolidated statements of operations. Penalties would be recognized as a component of "Selling, general and administrative expenses."

In many cases, the Company's tax positions are related to tax years that remain subject to examination by relevant tax authorities. The Company files income tax returns in the United States (federal) and in various state and local jurisdictions. In most instances, the Company is no longer subject to federal, state and local income tax examinations by tax authorities for years prior to 2006.

The adoption of the provisions of ASC 740-10 on January 1, 2009 did not have a material impact on the Company's consolidated financial position and results of operations. As of December 31, 2009, the Company believes that there are no significant uncertain tax positions requiring recognition in these consolidated financial statements.

As discussed in Note 1, the Company consummated a share exchange transaction with Hwareh.com, Inc on May 14, 2009. The share exchange transaction is being accounted for as a "reverse recapitalization," since the former stockholders of Hwareh.com own a majority of the outstanding shares of the Company's common stock immediately following the transaction, and Hwareh.com is deemed to be the accounting acquirer in the transaction. As a result, due to the change in control under Section 382 of the Internal Revenue Code, utilization of any pre-share exchange tax benefits would be substantially limited. As of December 31,2009, the Company has net operating losses aggregating $3,200,000, substantially expiring in 2029.

The Company's deferred tax assets and deferred tax liabilities consisted of the following:

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	2009	2008
Non Qualified stock options	48,280	
Operating loss carryforwards	$ 1,024,771	$ 270,695
Total deferred tax assets	1,073,051	270,695
Deferred tax liabilities:		
Property and Equipment	(71,222)	(51,037)
Total deferred tax liabilities	(71,222)	(51,037)
Deferred tax assets – net of deferred tax liabilities	1,001,829	219,658
Valuation Allowance	(1,001,829)	(219,658)
Deferred tax assets – net of valuation allowance	$ —	$ —
Change in valuation allowance	$ 782,171	$ 219,658

The Company has recorded a full valuation allowance against its deferred tax assets since management believes that based upon currently available objective evidence it is more likely than not that the deferred tax asset will not be realized. The provision for income taxes using the statutory federal tax rate as compared to the Company's effective tax rate is summarized as follows:

	December 31,	
	2009	2008
Tax expense (benefit) at statutory rate	(34.0)%	(34.0)%
Non-deductible expenses	2.0%	3.0%
Change in valuation allowance	32.0%	31.0%
Effective income tax rate	—	—

12. New Accounting Pronouncements

On September 30, 2009, the Company adopted changes issued by the Financial Accounting Standards Board (FASB) to the authoritative hierarchy of GAAP. These changes establish the FASB Accounting Standards Codification ("Codification") as the source of authoritative accounting principles recognized by the FASB to be applied by nongovernmental entities in the preparation of financial statements in conformity with GAAP. Rules and interpretive releases of the Securities and Exchange Commission (SEC) under authority of federal securities laws are also sources of authoritative GAAP for SEC registrants. The FASB will no longer issue new standards in the form of Statements, FASB Staff Positions, or Emerging Issues Task Force Abstracts; instead the FASB will issue Accounting Standards Updates. Accounting Standards Updates will not be authoritative in their own right as they will only serve to update the Codification. These changes and the Codification itself do not change GAAP. Other than the manner in which new accounting guidance is referenced, the adoption of these changes had no impact on the financial statements.

In June 2009, the FASB issued ASC810 (prior authoritative literature, SFAS 167 "Amendments to FASB Interpretation No. 46(R)") ASC810 eliminates Interpretation 46(R)'s exceptions to consolidating qualifying special-purpose entities, contains new criteria for determining the primary beneficiary, and increases the frequency of required reassessments to determine whether a company is the primary beneficiary of a variable interest entity. ASC810 also contains a new requirement that any term, transaction, or arrangement that does not have a substantive effect on an entity's status as a variable interest entity, a company's power over a variable interest entity, or a company's obligation to absorb losses or its right to receive benefits of an entity must be disregarded in applying Interpretation 46(R)'s provisions. The elimination of the qualifying special-purpose entity concept and its consolidation exceptions means more entities will be subject to consolidation assessments and reassessments. ASC810 will be effective January 1, 2010. The Company is in the process of evaluating the impact of this pronouncement on its consolidated financial position and results of operations.

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In May 2009, the FASB issued ASC 855 (prior authoritative literature: SFAS No. 165, “Subsequent Events”). This Statement sets forth: 1) the period after the balance sheet date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements; 2) the circumstances under which an entity should recognize events or transactions occurring after the balance sheet date in its financial statements; and 3) the disclosures that an entity should make about events or transactions that occurred after the balance sheet date. This Statement is effective for interim and annual periods ending after June 15, 2009. This Statement did not impact the Company’s consolidated financial position and results of operations.

In April 2009, the FASB issued ASC 820 (prior authoritative literature: “Staff Position (“FSP”) No. 107-1 and APB 28-1, “Interim Disclosures about Fair Value of Financial Instruments”). This standard requires disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies that were previously only required in annual financial statements. This standard is effective for interim reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. The adoption of this provision did not have a material impact on the Company’s financial position and results of operations.

In June 2008, the FASB issued updates to ASC 815-40 (prior authoritative literature: Issue No. 07-5, “Determining Whether an Instrument (or Embedded Feature) is Indexed to an Entity’s Own Stock” (“ASC 815-40”). This Issue addresses the determination of whether an instrument (or an embedded feature) is indexed to an entity’s own stock, which is the first part of the scope exception in paragraph 11(a) of ASC 815. ASC 815-40 is effective for fiscal years beginning after December 15, 2008, and interim periods within those fiscal years. Early application is not permitted. The adoption of ASC 815-40 did not have a material impact on the Company’s results of operations and financial condition.

In December 2007, the FASB issued ASC 805 (prior authoritative literature: SFAS No. 141R, "Business Combinations"). ASC 805 establishes principles and requirements for determining how an enterprise recognizes and measures the fair value of certain assets and liabilities acquired in a business combination, including noncontrolling interests, contingent consideration, and certain acquired contingencies. ASC 805 also requires acquisition-related transaction expenses and restructuring costs be expensed as incurred rather than capitalized as a component of the business combination. ASC 805 will be applicable prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. ASC 805 would have an impact on accounting for any businesses acquired after the effective date of this pronouncement.

In April 2009, the FASB issued new accounting guidance, under ASC Topic 820 on fair value measurements and disclosures, which established the requirements for estimating fair value when market activity has decreased and on identifying transactions that are not orderly. Under this guidance, entities are required to disclose in interim and annual periods the inputs and valuation techniques used to measure fair value. This guidance is effective for interim and annual periods ending after June 15, 2009. The adoption of this guidance did not have a material impact on the Company’s consolidated financial position or results of operations.

The FASB has issued Accounting Standard Update (ASU) 2009-17, Consolidations (Topic 810) - Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities. ASU 2009-17 changes how a reporting entity determines when an entity that is insufficiently capitalized or is not controlled through voting (or similar rights) should be consolidated. This determination is based on, among other things, the other entity’s purpose and design and the Company’s ability to direct the activities of the other entity that most significantly impact the other entity’s economic performance. ASU 2009-17 is effective at the start of the Company’s first fiscal year beginning after November 15, 2009. The adoption of this standard is not expected to have a material impact on the Company’s consolidated financial position and results of operations.

13. Subsequent Events

The Company evaluates events that have occurred after the balance sheet date through the date the financial statements are issued. Based upon the evaluation, the Company did not identify any non-recognized subsequent events that would require adjustment or disclosure in the consolidated financial statements.

On February 10, 2010, the Company granted to consultants options to purchase an aggregate of 1,650,000 shares of common stock with an exercise price of $0.14 per share for a total fair value of approximately $130,000 under a previously approved option plan.

Subsequent to December 31, 2009, convertible debentures in the amount of $25,000 have been converted to approximately 330,000 shares of common stock.

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