

NEWTEK BUSINESS SERVICES INC  
Form 8-K  
December 17, 2008

**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**

**December 17, 2008 (December 11, 2008)**

**Date of Report (date of Earliest Event Reported)**

**NEWTEK BUSINESS SERVICES, INC.**

**(Exact Name of Company as Specified in its Charter)**

**NEW YORK**  
**(State or Other Jurisdiction of**  
**Incorporation or Organization)**

**001-16123**  
**(Commission File No.)**

**11-3504638**  
**(I.R.S. Employer**

**Identification No.)**

**1440 Broadway, 17<sup>th</sup> floor, New York, NY 10018**

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(Address of principal executive offices and zip code)

(212) 356-9500

(Company's telephone number, including area code)

(Former name or former address, if changed from last report)

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))

### **Forward-Looking Statements**

Statements in this Current Report on Form 8-K (including the exhibits), including statements regarding Newtek's beliefs, expectations, intentions or strategies for the future, may be forward-looking statements under the Private Securities Litigation Reform Act of 1995. All forward-looking statements involve a number of risks and uncertainties that could cause actual results to differ materially from the plans, intentions and expectations reflected in or suggested by the forward-looking statements. Such risks and uncertainties include, among others, intensified competition, operating problems and their impact on revenues and profit margins, anticipated future business strategies and financial performance, anticipated future number of customers, business prospects, legislative developments and similar matters. Risk factors, cautionary statements and other conditions which could cause Newtek's actual results to differ from management's current expectations are contained in Newtek's filings with the Securities and Exchange Commission. Newtek undertakes no obligation to update any forward-looking statement to reflect events or circumstances that may arise after the date of this filing.

### **Item 1.01 Entry into a Material agreement (or a Material Amendment of a Material Definitive Agreement).**

On December 11, 2008, the Company's SBA lending subsidiary, Newtek Small Business Finance, Inc. (NSBF) entered into a Fourth Amendment, Consent and Waiver to Credit Agreement (the Fourth Amendment) dated as of December 31, 2005 between NSBF and GE Commercial Capital (GECC) which has made certain changes in the terms of the warehouse lending facility provided to NSBF. As previously announced, a default in one of the financial covenants of the Credit Agreement as of September 30, 2008 resulted in a letter from GECC curtailing the maximum availability under the warehouse line from \$50 Million to \$35 Million. On December 11, 2008, NSBF and GECC executed the Fourth Amendment making certain other adjustments in the terms of the facility and also waiving the prior default. A copy of the Fourth Amendment is filed as Exhibit 99.1 to this Form 8-K.

### **ITEM 9.01. Financial Statements and Exhibits**

(c) Exhibits

99.1 Fourth Amendment, Consent and Waiver to Credit Agreement dated as of December 31, 2005 between Newtek Small Business Finance, Inc. and GE Commercial Capital.

**SIGNATURES**

In accordance with the requirements of the Securities Exchange Act of 1934, the registrant has caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**NEWTEK BUSINESS SERVICES, INC.**

Date: December 17, 2008

/s/ Barry Sloane  
Barry Sloane  
Chairman of the Board, Chief Executive Officer, Secretary

**EXHIBIT INDEX**

**EXHIBIT**

<b>NUMBER</b>	<b>DESCRIPTION</b>
99.1	Fourth Amendment, Consent and waiver to Credit Agreement dated as of December 31, 2005 between Newtek Small Business Finance, Inc. and GE Commercial Capital.