

**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): September 12, 2022

CAPSTONE GREEN ENERGY CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-15957
(Commission File Number)

95-4180883
(IRS Employer
Identification No.)

16640 Stagg Street,
Van Nuys, California
(Address of principal executive offices)

91406
(Zip Code)

(818) 734-5300
(Registrant's telephone number, including area code)

Former name or former address, if changed since last report: N/A

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:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of exchange on which registered</u>
Common Stock, par value \$.001 per share	CGRN	NASDAQ Capital Market
Series B Junior Participating Preferred Stock Purchase Rights		

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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

As reported in Item 5.07 below, at the 2022 Annual Meeting of Stockholders (the “Annual Meeting”) of the Company held on September 12, 2022, the Company’s stockholders ratified an amendment to the Company’s Rights Agreement with Broadridge Financial Solutions, Inc., as rights agent, dated as of May 6, 2019 (the “NOL Rights Agreement”), extending the Final Expiration Date under the NOL Rights Agreement from May 6, 2022 to May 6, 2025 (the “NOL Rights Agreement Amendment”). The Company’s Board of Directors previously approved the NOL Rights Agreement Amendment, subject to such stockholder ratification.

The foregoing description of the NOL Rights Agreement Amendment does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the NOL Rights Agreement Amendment, a copy of which is filed herewith as Exhibit 10.1 hereto and incorporated herein by reference.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**(e) Amendment of 2017 Equity Incentive Plan**

As reported in Item 5.07 below, at the Annual Meeting, the Company’s stockholders approved an amendment (the “Amendment”) to the Company’s 2017 Equity Incentive Plan (the “Plan”) to increase the number of shares available thereunder by 600,000 shares. The Company’s Board of Directors previously approved the Amendment, subject to such stockholder approval.

A summary of the material terms of the Amendment and the Plan is set forth in the Company’s definitive proxy statement on Schedule 14A filed with the Securities and Exchange Commission on July 29, 2022. That summary and the above description of the Amendment do not purport to be complete and are qualified in their entirety by reference to the full text of the Amendment, which is filed as Exhibit 10.2 hereto and incorporated herein by reference.

Item 5.07. Submission of Matters to a Vote of Security Holders

As described in Item 5.02 above, the Company virtually held its Annual Meeting via webcast on September 12, 2022. According to the inspector of elections, the stockholders present virtually in person or by proxy represented 15,315,565 shares of common stock (entitled to one vote per share). At the Annual Meeting, the stockholders voted on the following five proposals and cast their votes as follows:

Proposal 1: Election of Directors.

Director	Votes For	Votes Withheld	Broker Non-Votes
Robert C. Flexon	3,687,251	684,564	5,493,574
Darren R. Jamison	3,775,499	596,316	5,493,574
Yon Y. Jordan	3,731,703	640,112	5,493,574
Robert F. Powelson	3,732,144	639,671	5,493,574
Denise Wilson	3,699,014	672,801	5,493,574
Ping Fu	3,690,057	681,758	5,493,574

Each of the individuals listed above was elected as a director of the Company to serve until the next annual meeting or until his or her successor is elected and qualified.

Proposal 2: Approval of an amendment to increase the number of shares available under the Capstone Green Energy Corporation 2017 Equity Incentive Plan by 600,000.

Votes For	Votes Against	Votes Abstain	Broker Non-Votes
3,261,390	1,061,181	49,244	5,493,574

The stockholders voted to approve the amendment to the Capstone Green Energy Corporation 2017 Equity Incentive Plan.

Proposal 3: Advisory vote on the compensation of the Company's named executive officers

Votes For	Votes Against	Votes Abstain	Broker Non-Votes
3,419,957	814,931	136,927	5,493,574

The stockholders voted to approve, on a non-binding advisory vote, the compensation of the Company's named executive officers.

Proposal 4: Ratification of an amendment to the Company's NOL Rights Agreement, extending the Final Expiration Date under the NOL Rights Agreement from May 6, 2022 to May 6, 2025.

Votes For	Votes Against	Votes Abstain	Broker Non-Votes
3,795,781	441,977	134,057	5,493,574

The stockholders voted to ratify the amendment to the NOL Rights Agreement, extending the Final Expiration Date under the NOL Rights Agreement from May 6, 2022 to May 6, 2025.

Proposal 5: Ratification of the selection of Marcum LLP as the Company's independent registered public accounting firm for the fiscal year ending March 31, 2023.

Votes For	Votes Against	Votes Abstain
8,951,739	655,033	258,617

The stockholders voted to ratify the selection of Marcum LLP as the Company's independent registered public accounting firm for the fiscal year ending March 31, 2023.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Description
10.1	<u>Amendment No. 1 to NOL Rights Agreement by and between the Company and Broadridge Financial Solutions, Inc., as rights agent, dated as of May 6, 2019.</u>
10.2	<u>Amendment No. 6 to Capstone Green Energy Corporation 2017 Equity Incentive Plan.</u>
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

SIGNATURE

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.

CAPSTONE GREEN ENERGY CORPORATION

Date: September 15, 2022

By: /s/ Scott Robinson

Name: Scott Robinson

Title: Interim Chief Financial Officer

Amendment No. 1 to Rights Agreement

This Amendment No. 1 to the Rights Agreement (this “**Amendment**”) is made as of September 12, 2022 and amends that certain Rights Agreement dated as of May 6, 2019 (the “**Rights Agreement**”), by and between Capstone Green Energy Corporation, a Delaware Corporation (the “**Company**”), and Broadridge Financial Solutions, Inc., a Delaware corporation, as rights agent (the “**Rights Agent**”). All capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Rights Agreement.

RECITALS:

WHEREAS, the Company and the Rights Agent had previously entered into the Rights Agreement for the purposes of preserving the Company’s ability to utilize certain net operating losses and certain other tax attributes for United States federal income tax purposes;

WHEREAS, the Rights Agreement expired on May 6, 2022 (the “**Final Expiration Date**”);

WHEREAS, pursuant to Section 7(a) of the Rights Agreement, the Board may establish a new Final Expiration Date prior to such date so long as the extension is submitted to the stockholders of the Company for ratification at the next annual meeting of the stockholders succeeding such extension;

WHEREAS, on April 7, 2022, the Board approved the extension of the Final Expiration Date to May 6, 2025; and

WHEREAS, at the 2022 Annual Meeting of Stockholders of the Company held on September 12, 2022, the Company’s stockholders ratified the extension of the Final Expiration Date to May 6, 2025.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereby agree as follows:

1. **Amendment to Rights Agreement**

(a) Section 7(a) of the Rights Agreement is hereby amended and restated to read in its entirety as follows:

(a) Subject to Section 7(e) hereof, the registered holder of any Rights Certificate may exercise the Rights evidenced thereby (except as otherwise provided herein including, without limitation, in the restrictions on exercisability set forth in Sections 9(c), 11(a)(iii) and 23(a) hereof) in whole or in part at any time after the Distribution Date upon surrender of the Rights Certificate, with the form of election to purchase and the certificate on the reverse side thereof properly completed and duly executed, to the Rights Agent at the office of the Rights Agent designated for such purpose, together with payment of the Exercise Price for each one one-thousandth of a share of Preferred Stock (or Common Stock, other securities, cash or other assets, as the case may be) as to which the Rights are exercised prior to the earliest of (i) the Close of Business on May 6, 2025 or such later date as may be established by the Board prior to the expiration of the Rights as

long as the extension is submitted to the stockholders of the Company for ratification at the next annual meeting of stockholders succeeding such extension (the “**Final Expiration Date**”); (ii) the time at which the Rights are redeemed pursuant to Section 23 hereof (the “**Redemption Date**”); (iii) the time at which the Rights are exchanged pursuant to Section 24 hereof (the “**Exchange Date**”); (iv) the closing of any merger or other acquisition transaction involving the Company pursuant to an agreement of the type described in Section 13(f) at which time the Rights are terminated; (v) the Close of Business on the effective date of the repeal of Section 382 of the Code if the Board determines that this Agreement is no longer necessary or desirable for the preservation of Tax Benefits; and (vi) the Close of Business on the first day of a taxable year of the Company to which the Board determines that no Tax Benefits are available to be carried forward (the earliest of (i) — (vi) being herein referred to as the “**Expiration Date**”).

(b) the fourth paragraph of Exhibit B to the Rights Agreement – Summary of Rights to Purchase Series B Junior Participating Preferred Stock is hereby amended and restated to read in its entirety as follows:

The Rights are not exercisable until the Distribution Date. The Rights will expire prior to the earliest of (i) May 6, 2025 or such later date as may be established by the Board prior to the expiration of the Rights as long as the extension is submitted to the stockholders of the Company for ratification at the next annual meeting of stockholders succeeding such extension (the “**Final Expiration Date**”), (ii) the time at which the Rights are redeemed or exchanged by the Company, in each case as described below, (iii) upon the occurrence of certain transactions, (iv) the Close of Business on the effective date of the repeal of Section 382 of the Internal Revenue Code of 1986, as amended, if the Board determines that this Agreement is no longer necessary or desirable for the preservation of Tax Benefits, and (v) the Close of Business on the first day of a taxable year of the Company to which the Board determines that no Tax Benefits (as defined in the Rights Agreement) are available to be carried forward.

(c) the first paragraph of Exhibit C to the Rights Agreement – Form of Rights Certificate is hereby amended and restated to read in its entirety as follows:

NOT EXERCISABLE AFTER MAY 6, 2025 OR EARLIER IF REDEEMED OR EXCHANGED BY THE COMPANY. THE RIGHTS ARE SUBJECT TO REDEMPTION, AT THE OPTION OF THE COMPANY, AT \$0.001 PER RIGHT AND TO EXCHANGE ON THE TERMS SET FORTH IN THE RIGHTS AGREEMENT. UNDER CERTAIN CIRCUMSTANCES, RIGHTS BENEFICIALLY OWNED BY AN ACQUIRING PERSON OR AN AFFILIATE OR ASSOCIATE OF ANY SUCH PERSON (AS SUCH TERMS ARE DEFINED IN THE RIGHTS AGREEMENT) AND ANY SUBSEQUENT HOLDER OF SUCH RIGHTS MAY BECOME NULL AND VOID. THE RIGHTS SHALL NOT BE EXERCISABLE, AND SHALL BE NULL AND VOID, AS LONG AS HELD BY A HOLDER IN ANY JURISDICTION WHERE THE REQUISITE QUALIFICATION TO THE ISSUANCE TO SUCH HOLDER, OR THE EXERCISE BY SUCH HOLDER, OF THE RIGHTS IN SUCH JURISDICTION SHALL NOT HAVE BEEN OBTAINED OR BE OBTAINABLE.

(d) the third paragraph of Exhibit C to the Rights Agreement – Form of Rights Certificate is hereby amended and restated to read in its entirety as follows:

This certifies that _____, or its registered assigns, is the registered holder of the number of Rights set forth above, each of which entitles the holder thereof, subject to the terms, provisions and conditions of the Rights Agreement dated as of May 6, 2019, as amended from time to time (the “Rights Agreement”), between Capstone Turbine Corporation, a Delaware corporation (the “Company”), and Broadridge Financial Solutions, Inc., as Rights Agent (the “Rights Agent”), to purchase from the Company at any time after the Distribution Date and prior to 5:00 p.m., New York City time, on May 6, 2025, at the office or offices of the Rights Agent designated for such purpose, or its successors as Rights Agent, one one-thousandth of a fully paid, non-assessable share of Series B Junior Participating Preferred Stock, par value \$0.001 per share (the “Preferred Stock”), of the Company, at a purchase price of \$5.22 per one one-thousandth share of Preferred Stock (the “Exercise Price”), upon presentation and surrender of this Rights Certificate with the Election to Purchase and related Certificate duly executed. The number of Rights evidenced by this Rights Certificate (and the number of shares that may be purchased upon exercise thereof) set forth above, and the Exercise Price per share as set forth above, are the number and Exercise Price as of May 6, 2019, based on the Preferred Stock as constituted at such date, and are subject to adjustment upon the happening of certain events as provided in the Rights Agreement. Capitalized terms used and not defined herein shall have the meanings specified in the Rights Agreement.

2. **No Additional Changes.** Except as expressly and specifically amended by this Amendment, all provisions of the Rights Agreement shall remain in full force and effect according to their terms, and the Company and the Rights Agent shall continue to be bound by such Rights Agreement as modified by this Amendment. In the event of any conflict between any provision of the Rights Agreement and this Amendment, this Amendment shall control. From and after the date hereof, all references in the Rights Agreement to “this Agreement” shall mean the Rights Agreement as amended by this Amendment.

3. **Governing Law.** This Amendment shall be deemed to be a contract made under the laws of the State of Delaware and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts to be made and performed entirely within such State.

4. **Counterparts.** This Amendment may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of Amendment by facsimile or other customary shall mean of electronic transmission (e.g., “PDF”) shall be effective as delivery of a manually executed counterpart hereof.

5. **Interpretation.** The headings contained in this Amendment are for descriptive purposes only and shall not affect in any way the meaning or interpretation of this Amendment. For purposes of this Amendment, whenever a specific provision of the Code or a specific Treasury

Regulation is referenced, such reference shall also apply to any successor or replacement provision or Treasury Regulation, as applicable.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed, all as of the date first above written

CAPSTONE GREEN ENERGY CORPORATION, as Company

By: /s/ Darren R. Jamison

Name: Darren R. Jamison

Title: President and Chief Executive Officer

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

[Signature Page to Rights Agreement]

BROADRIDGE FINANCIAL SOLUTIONS, INC.,
as Rights Agent

By: /s/ John P. Dunn

Name: John P. Dunn

Title: SVP

[Signature Page to Rights Agreement]

**AMENDMENT NO. 6 TO THE CAPSTONE GREEN ENERGY CORPORATION
2017 EQUITY INCENTIVE PLAN**

This Amendment No. 6 (this “*Amendment*”) to the Capstone Green Energy Corporation 2017 Equity Incentive Plan (the “*Plan*”), of Capstone Green Energy Corporation, a Delaware corporation (the “*Company*”) is effective as of the date of approval by the Company’s stockholders (the “*Effective Date*”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Plan.

As of the Effective Date, the Plan shall be amended as follows:

1. Section 3(a) of the Plan is hereby deleted in its entirety and replaced with the following:
 - a. Stock Issuable. The maximum number of shares of Stock reserved and available for issuance under the Plan shall be 2,500,000 shares, subject to adjustment as provided in this Section 3. For purposes of this limitation, the shares of Stock underlying any Awards that are forfeited, canceled or otherwise terminated (other than by exercise) shall be added back to the shares of Stock available for issuance under the Plan. Notwithstanding the foregoing, the following shares shall not be added to the shares authorized for grant under the Plan: (i) shares tendered or held back upon exercise of an Option or settlement of an Award to cover the exercise price or tax withholding, and (ii) shares subject to a Stock Appreciation Right that are not issued in connection with the stock settlement of the Stock Appreciation Right upon exercise thereof. In the event the Company repurchases shares of Stock on the open market, such shares shall not be added to the shares of Stock available for issuance under the Plan. Subject to such overall limitations, shares of Stock may be issued up to such maximum number pursuant to any type or types of Award; provided, however, no more than 200,000 shares of Stock may be granted to any one individual grantee during any one calendar year period, and no more than 2,500,000 shares of the Stock may be issued in the form of Incentive Stock Options. The shares available for issuance under the Plan may be authorized but unissued shares of Stock or shares of Stock reacquired by the Company.
2. Except as expressly amended by this Amendment, the Plan shall continue in full force and effect in accordance with the provisions thereof.

[signature page to follow]

IN WITNESS WHEREOF, the Company has caused this Amendment to be duly executed as of the date first written above.
CAPSTONE GREEN ENERGY CORPORATION

By: /s/ Darren R. Jamison
Name: Darren R. Jamison
Title: President and Chief Executive Officer
