

PLUG POWER INC  
Form 8-A12B/A  
March 26, 2012

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 8-A/A**  
**(Amendment No. 3)**

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES

PURSUANT TO SECTION 12(b) OR (g) OF THE

SECURITIES EXCHANGE ACT OF 1934

**PLUG POWER INC.**

(Exact name of registrant as specified in charter)

Delaware  
(State of incorporation  
or organization)

22-3672377  
(IRS Employer  
Identification No.)

**968 Albany Shaker Road**  
Latham, New York  
(Address of principal executive offices)

12110  
(Zip Code)

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

| Title of each class<br>to be so registered | Name of each exchange<br>on which each<br>class is to be registered |
|--|---|
| <b>Preferred Stock Purchase Rights</b>     | <b>The NASDAQ Stock Market LLC</b>                                  |

If this Form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box.

If this Form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box.

Securities Act registration statement file number to which this form relates: Not applicable.

Securities to be registered pursuant to Section 12(g) of the Act: None

---

## EXPLANATORY NOTE

This Amendment No. 3 to Form 8-A amends and supplements the Registration Statement on Form 8-A filed by Plug Power Inc., a Delaware corporation (the Company ), with the Securities and Exchange Commission (the SEC ) on June 24, 2009, as amended by the Amendment No. 1 to Form 8-A filed by the Company with the SEC on May 6, 2011 and the Amendment No. 2 to Form 8-A filed by the Company with the SEC on March 19, 2012 (including the exhibits thereto, the Form 8-A ). Capitalized terms used without definition herein shall have the meaning set forth in the Shareholder Rights Agreement, dated June 23, 2009 (as amended, the Rights Agreement ), between the Company and Broadridge Corporate Issuer Solutions, Inc. ( Broadridge ), as rights agent.

### Item 1. Description of Registrant's Securities to be Registered.

Item 1 of the Form 8-A is amended and supplemented by adding the following:

#### **Amendment to Rights Agreement**

On March 23, 2012, the Board of Directors of the Company approved an Amendment No. 3 to the Rights Agreement (the Amendment No. 3 ). The Amendment No. 3 amends the Rights Agreement to provide that, generally, any beneficial ownership of shares of our common stock by all affiliates and associates of AWM Investments Company, including but not limited to Special Situations Technology Fund, L.P., Special Situations Technology Fund II, L.P., and Special Situations Private Equity Fund, L.P. (collectively, SSF ), will not cause the preferred stock purchase rights to become exercisable under the Rights Agreement, so long as SSF and their affiliates and associates do not at any time beneficially own shares of our common stock equaling or exceeding three percent more than the percentage of the then outstanding shares of common stock beneficially owned by SSF and their affiliates and associates immediately following the closing of the public offering announced on March 22, 2012.

#### **Miscellaneous**

The Rights Agreement, the Amendment No. 1 to the Rights Agreement, the Amendment No. 2 to the Rights Agreement and the Amendment No. 3 are filed as Exhibits 4.1, 4.2, 4.3, and 4.4 respectively, to this Amendment No. 3 to Form 8-A and are incorporated herein by reference. The above description of the material terms of the Amendment No. 3 as they relate to the Rights Agreement is qualified in its entirety by reference to such exhibits.

**Item 2.**            **Exhibits.**

| <u>Exhibit No.</u> | <u>Description</u>  |
|--------------------|---|
| 3.1                | Certificate of Designations, Preferences and Rights of a Series of Preferred Stock of Plug Power Inc. classifying and designating the Series A Junior Participating Cumulative Preferred Stock (incorporated by reference to Exhibit 3.1 from the Company's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on June 24, 2009). |

- 4.1 Shareholder Rights Agreement, dated as of June 23, 2009, between Plug Power Inc. and American Stock Transfer & Trust Company LLC, as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on June 24, 2009).
- 4.2 Amendment No. 1, effective as of May 6, 2011, to the Shareholder Rights Agreement by and between Plug Power Inc. and American Stock Transfer & Trust Company LLC, as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Current Report on Form 8-K filed with the SEC on May 6, 2011).
- 4.3 Amendment No. 2, effective as of March 16, 2012, to the Shareholder Rights Agreement by and between Plug Power Inc. and Broadridge Corporate Issuer Solutions, Inc., as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Current Report on Form 8-K filed with the SEC on March 19, 2012).
- 4.4 Amendment No. 3, effective as of March 23, 2012, to the Shareholder Rights Agreement by and between Plug Power Inc. and Broadridge Corporate Issuer Solutions, Inc., as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Current Report on Form 8-K filed with the SEC on March 26, 2012).

**SIGNATURE**

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

Plug Power Inc.

Date: March 26, 2012

By: /s/ Andrew Marsh

Name: Andrew Marsh

Title: President and Chief Executive Officer

## EXHIBIT INDEX

| <b>Exhibit No.</b> | <b>Description</b>  |
|--------------------|---|
| 3.1                | Certificate of Designations, Preferences and Rights of a Series of Preferred Stock of Plug Power Inc. classifying and designating the Series A Junior Participating Cumulative Preferred Stock (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on June 24, 2009). |
| 4.1                | Shareholder Rights Agreement, dated as of June 23, 2009, between Plug Power Inc. and American Stock Transfer & Trust Company LLC, as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on June 24, 2009).  |
| 4.2                | Amendment No. 1, effective as of May 6, 2011, to the Shareholder Rights Agreement by and between Plug Power Inc. and American Stock Transfer & Trust Company LLC, as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Current Report on Form 8-K filed with the SEC on May 6, 2011).   |
| 4.3                | Amendment No. 2, effective as of March 16, 2012, to the Shareholder Rights Agreement by and between Plug Power Inc. and Broadridge Corporate Issuer Solutions, Inc., as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Current Report on Form 8-K filed with the SEC on March 19, 2012).   |
| 4.4                | Amendment No. 3, effective as of March 23, 2012, to the Shareholder Rights Agreement by and between Plug Power Inc. and Broadridge Corporate Issuer Solutions, Inc., as Rights Agent (incorporated by reference to Exhibit 4.1 from the Company's Current Report on Form 8-K filed with the SEC on March 26, 2012).   |

