**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): October 15, 2021**

# Via Renewables, Inc.

(Exact Name of Registrant as Specified in its Charter)

| **Delaware** | **001-36559** | **46-5453215** |
|---|---|---|
| (State or Other Jurisdiction of Incorporation) | (Commission File Number) | (IRS Employer Identification Number) |

**12140 Wickchester Ln, Suite 100**
**Houston, Texas 77079**
(Address of principal executive offices)

**(713) 600-2600**
(Registrant's telephone number, including area code)

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 | Trading Symbols(s) | Name of exchange on which registered |
|---|---|---|
| Class A common stock, par value $0.01 per share | SPKE | The NASDAQ Global Select Market |
| 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock, par value $0.01 per share | SPKEP | The NASDAQ Global Select Market |

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.**

***Fifth Amendment to Credit Agreement***

On October 15, 2021, Via Renewables, Inc., a Delaware corporation (the "Company"), entered into Amendment No. 5 (the "Fifth Amendment") to its Credit Agreement, dated May 19, 2017, as amended (the "Credit Agreement"), by and among the Company, the Co-Borrowers (as defined in the Fifth Amendment), the Issuing Banks party thereto (as defined in the Fifth Amendment), Coöperatieve Rabobank U.A., New York Branch, as agent, and the Banks party thereto (as defined in the Fifth Amendment).

The Fifth Amendment extended the maturity date of the Credit Agreement from July 31, 2022 to October 15, 2023. The Fifth Amendment also terminated the provision allowing for share buyback loans and added a provision for up to $50.0 million of borrowings to fund acquisitions ("Acquisition Loans") (subject to limits as defined in the Fifth Amendment). Under the Fifth Amendment, Acquisition Loans may not exceed 75% of the adjusted purchase price of the acquisition, as defined in the Fifth Amendment. The interest rate for Acquisition Loans is generally determined by reference to the Eurodollar rate plus an applicable margin of 4.00% per annum or the alternate base rate plus an applicable margin of 3.00% per annum. The Fifth Amendment makes additional changes to defined terms and calculations, and also contains customary representations, warranties and agreements of the Company and Co-Borrowers.

A copy of the Fifth Amendment is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated by reference in this Item 1.01. The description above is a summary of the Fifth Amendment and is qualified in its entirety by the complete text of the Fifth Amendment.

**Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The description of the Fifth Amendment set forth in Item 1.01 is incorporated by reference into this Item 2.03.

**Item 7.01 Regulation FD Disclosure.**

On October 20, 2021, the Company issued a press release announcing the payment of dividends and certain of the events described in this Current Report on Form 8-K. A copy of the Company's press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K and incorporated by reference in this Item 7.01. The information contained in this Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1, shall not be deemed "filed" with the

Securities and Exchange Commission nor incorporated by reference in any registration statement filed by the Company under the Securities Act.

**Item 8.01 Other Events.**

***Amended and Restated Subordinated Facility***

On October 13, 2021, the Company entered into an Amended and Restated Subordinated Promissory Note (Note No. 6) (the "***A&R Subordinated Facility***"), by and among the Company, Spark HoldCo, LLC, a Delaware limited liability company and subsidiary of the Company ("***Spark HoldCo***"), and Retailco, LLC ("***Retailco***"). The A&R Subordinated Facility amends and restates that certain Amended and Resated Subordinated Promissory Note (Note No. 5), dated as of July 31, 2020, by and among the Company, Spark HoldCo and Retailco, solely to extend the expiration date from January 31, 2023 to January 31, 2025. The original terms and conditions of the Subordinated Promissory Note were reviewed and approved by a special committee of the Board consisting solely of the Company's independent directors.

The A&R Subordinated Facility allows the Company to borrow up to $25.0 million through one or more advances in increments of no less than $1.0 million. Borrowings under the A&R Subordinated Facility accrue interest at a rate of 5% per annum from the date of advance, which interest may be capitalized by the Company. The A&R Subordinated Facility is subordinated in certain respects to the Company's Credit Agreement (as amended by the Fifth Amendment) pursuant to a subordination agreement. Payment of principal and interest under the A&R Subordinated Facility is accelerated upon the occurrence of certain bankruptcy events and change of control or sale transactions. The A&R Subordinated Facility matures on January 31, 2025.

Retailco is owned indirectly by W. Keith Maxwell, III, who serves as the Chief Executive Officer and Chairman of the Board of Directors (the "***Board***") of the Company. W. Keith Maxwell, III, through Retailco and other entities, owns a majority of the Company's voting power.

A copy of the A&R Subordinated Facility is filed as Exhibit 10.2 to this Current Report on Form 8-K and is incorporated by reference in this Item 1.01. The description above is a summary of the A&R Subordinated Facility and is qualified in its entirety by the complete text of the A&R Subordinated Facility.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits:

| Exhibit No. | Description |
|---|---|
| 10.1# | Amendment No. 5 to the Credit Agreement, dated as of October 15, 2021, by and among Via Renewables, Inc., the Co-Borrowers, the Issuing Banks party thereto, Coöperatieve Rabobank U.A., New York Branch, as agent, and the Banks party thereto. |
| 10.2 | Amended and Restated Subordinated Promissory Note of Spark HoldCo, LLC and Via Renewables, Inc., dated October 13, 2021. |
| 99.1 | Press Release of Via Renewables, Inc. dated October 20, 2021. |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document). |

# Certain schedules, exhibits and annexes have been omitted in reliance on Item 601 (a)(5) of Regulation S-K, the registrant agrees to furnish supplementally a copy of any omitted schedule, exhibit or annex to the Commission upon request

## SIGNATURES

Pursuant to the requirements of the Securities and Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: October 20, 2021

**Via Renewables, Inc.**

| | |
|---|---|
| By: | /s/ James G. Jones II |
| Name: | James G. Jones II |
| Title: | Chief Financial Officer |

**[Execution Version]**

**AMENDMENT NO. 5**

THIS **AMENDMENT NO. 5** (this "Amendment"), entered into on, and effective as of October 15, 2021 (the "Effective Date"), is made by and among **SPARK HOLDCO, LLC** ("HoldCo"), a Delaware limited liability company, **SPARK ENERGY, LLC** ("Spark"), a Texas limited liability company, **SPARK ENERGY GAS, LLC** (" SEG"), a Texas limited liability company, **CENSTAR ENERGY CORP.**, a New York corporation ("CenStar"), **CENSTAR OPERATING COMPANY, LLC**, a Texas limited liability company ("Censtar Opco"), **OASIS POWER, LLC**, a Texas limited liability company ("Oasis"), **OASIS POWER HOLDINGS, LLC**, a Texas limited liability company ("Oasis Holdings"), **ELECTRICITY MAINE, LLC**, a Maine limited liability company ("Maine"), **ELECTRICITY N.H., LLC**, a Maine limited liability company ("NH"), **PROVIDER POWER MASS, LLC**, a Maine limited liability company ("Mass"), **MAJOR ENERGY SERVICES LLC**, a New York limited liability company ("Major"), **MAJOR ENERGY ELECTRIC SERVICES LLC**, a New York limited liability company ("Electric"), **RESPOND POWER LLC**, a New York limited liability company ("Respond"), **PERIGEE ENERGY, LLC**, a Texas limited liability company ("Perigee"), **VERDE ENERGY USA, INC.**, a Delaware corporation ("Verde Inc."), **VERDE ENERGY USA COMMODITIES, LLC**, a Delaware limited liability company ("Verde Commodities"), **VERDE ENERGY USA CONNECTICUT, LLC**, a Delaware limited liability company ("Verde Connecticut"), **VERDE ENERGY USA DC, LLC**, a Delaware limited liability company ("Verde DC"), **VERDE ENERGY USA ILLINOIS, LLC**, a Delaware limited liability company ("Verde Illinois"), **VERDE ENERGY USA MARYLAND, LLC**, a Delaware limited liability company ("Verde Maryland"), **VERDE ENERGY USA MASSACHUSETTS, LLC**, a Delaware limited liability company ("Verde Massachusetts"), **VERDE ENERGY USA NEW JERSEY, LLC**, a Delaware limited liability company ("Verde New Jersey"), **VERDE ENERGY USA NEW YORK, LLC**, a Delaware limited liability company ("Verde New York"), **VERDE ENERGY USA OHIO, LLC**, a Delaware limited liability company ("Verde Ohio"), **VERDE ENERGY USA PENNSYLVANIA, LLC**, a Delaware limited liability company ("Verde Pennsylvania"), **VERDE ENERGY USA TEXAS HOLDINGS, LLC**, a Delaware limited liability company ("Verde Texas Holdings"), **VERDE ENERGY USA TRADING, LLC**, a Delaware limited liability company ("Verde Trading"), **VERDE ENERGY SOLUTIONS, LLC**, a Delaware limited liability company ("Verde Solutions"), **VERDE ENERGY USA TEXAS, LLC**, a Texas limited liability company (fka Potentia Energy, LLC) ("Verde Texas"), and **HIKO ENERGY, LLC**, a New York limited liability company ("Hiko") (jointly, severally and together, the "Co-Borrowers," and each individually, a "Co-Borrower"), **VIA RENEWABLES, INC.** (fka Spark Energy, Inc.)(" Parent"), a Delaware corporation, the Issuing Banks, **COÖPERATIEVE RABOBANK U.A., NEW YORK BRANCH**, as Agent, and each financial institution which is a party hereto (collectively, the "Banks"). Capitalized terms used herein but not defined herein shall have the meanings specified by the Credit Agreement referred to below.

**W I T N E S S E T H:**

**WHEREAS**, the Co-Borrowers, the Parent, the Agent, and the Banks have entered into the Credit Agreement dated as of May 19, 2017 (as amended, restated, supplemented or otherwise modified from time to time prior to the effectiveness of this Amendment, the "Existing Credit Agreement"; and after giving effect to this Amendment, the "Credit Agreement"); and

**WHEREAS**, the parties hereto have agreed to make certain amendments to the Existing Credit Agreement as provided for herein.

**NOW THEREFORE**, in consideration of the foregoing and the mutual agreements set forth herein and for other good and valuable consideration, the parties hereto agree as follows:

**SECTION 1. Amendments**. Effective on the occurrence of the Effective Date (as defined below), the Existing Credit Agreement is hereby amended as follows:

(a) the Existing Credit Agreement (excluding the Exhibits and Schedules thereto, which (except as set forth in clauses (b) through (i) below) shall continue to be the Schedules and Exhibits under the Credit Agreement) is amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Annex I hereto.

(b) Schedule 2.01 is deleted and replaced as set forth on Annex II hereto.

(c) Exhibit A-1 is deleted and replaced as set forth on Annex III hereto.

(d) Exhibit A-2 is amended by deleting the final sentence in footnote 3 therein and replacing it with the following: "If no Interest Period is specified with respect to any requested Daily Eurodollar Rate Loan, an Interest Period of one month's duration shall be deemed to have been selected."

(e) Exhibit B-1 is deleted and replaced with Exhibit B as set forth on Annex IV hereto.

(f) Exhibit B-2 is deleted.

(g) Exhibit D is deleted and replaced as set forth on Annex V hereto.

(h) Exhibit G is deleted and replaced as set forth on Annex VI hereto.

(i) Exhibit H is deleted and replaced as set forth on Annex VII hereto.

(j) Exhibit I is deleted and replaced as set forth on Annex VIII hereto.

**SECTION 2. Conditions to Effectiveness**. This Amendment shall be effective as of the Effective Date upon the satisfaction of the following conditions precedent:

(a) Documentation.

(i) The Agent shall have received counterparts hereof duly executed by the Loan Parties, the Agent, the Issuing Banks, and the Banks.

(ii) The Agent shall have received copies of the resolutions of each Loan Party authorizing the transactions contemplated hereby, certified as of the Effective Date by a Responsible Officer of such Loan Party.

(iii) The Agent shall have received a certificate of a Responsible Officer of each Loan Party certifying the names and true signatures of any Responsible Officers of such Loan Party who are authorized to act on behalf of each Loan Party.

(iv) The Agent shall have received (a) the certificate of incorporation, certificate of formation, or certificate of limited partnership, as applicable, of each Loan Party as in effect on the Effective Date, each certified by the Secretary of State of each such Person's state of organization (or a certification by a Responsible Officer of such Loan Party (in form and substance satisfactory to the Agent) that such certificate of incorporation, certificate of formation, or certificate of limited partnership, as applicable, has not been amended since the previous delivery thereof to the Agent and remains in full force and effect), (b) the bylaws, regulations, operating agreement or partnership agreement, as applicable, of each Loan Party, each certified by a Responsible Officer of such Loan Party as a true and correct copy thereof as of the Effective Date (or a certification by a Responsible Officer of such Loan Party (in form and substance satisfactory to the Agent) that such bylaws, regulations, operating agreement or partnership agreement, as applicable, has (or have) not been amended since the previous delivery thereof to the Agent and remain (or remains) in full force and effect), and (c) evidence satisfactory to the Agent, that each Loan Party is in good standing under the laws of its state of organization.

(v) The Agent shall have received a Note (as defined in the Credit Agreement (after giving effect to this Amendment)) duly executed by the Co-Borrowers, for each Bank which shall have requested the same prior to the date hereof.

(vi) The Agent shall have received (x) the Subordinated Creditor Consent (in the form of Annex IX hereto) duly executed by Retailco and (y) written evidence (in form and substance satisfactory to the Agent) that the maturity of the Subordinated Debt owing to Retailco has been extended in a manner compliant with clause (a) of the definition thereof.

(vii) The Agent shall have received all documentation and other information requested by the Agent, any Issuing Bank, or any Bank that is required by regulatory authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the USA Patriot Act.

(b) Fees and Expenses. The Agent shall have received evidence of payment by the Co-Borrowers of all fees, costs and expenses to the extent then due and payable on or prior to the Effective Date, together with Attorney Costs.

**SECTION 3. Representations and Warranties**. Each of the Co-Borrowers hereby represents and warrants that after giving effect hereto:

(a) The execution, delivery and performance by each Loan Party of this Amendment have been duly authorized by all necessary corporate or limited liability company action, as applicable, and do not and will not contravene, conflict with or result in any breach or contravention of, or the creation of any Lien under any of such Loan Party's organizational and governing documents, or any document evidencing any contractual obligation to which such Loan Party is a party or any order, injunction, writ or decree of any Governmental Authority to which such Loan Party or its property is subject or any Requirement of Law, to the extent any such contravention, conflict or breach has or could reasonably be expected to have a Material Adverse Effect on the Loan Parties, taken as a whole.

(b) The representations and warranties of the Loan Parties contained in the Loan Documents are true and correct in all material respects (except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which representation and warranty shall be true and correct in all respects) on and as of the Effective Date (except to the extent such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct as of such earlier date) and after giving effect to this Amendment.

(c) No event has occurred and is continuing which constitutes a Default, an Event or Default or both.

**SECTION 4. Share Buyback DDTL Commitments; WC Notes; Share Buyback DDTL Notes**.

(a) The Share Buyback DDTL Commitment (as defined in the Existing Credit Agreement) of each Bank is hereby terminated.

(b) Each WC Note (as defined in the Existing Credit Agreement) and each Share Buyback DDTL Note (as defined in the Existing Credit Agreement) is hereby canceled.

**SECTION 5. Ratification of Obligations; Reaffirmation of Guaranty Agreement and Liens; Post-Closing Covenant**. (a) Each of the Loan Parties hereby ratifies and confirms its Obligations under the Credit Agreement and the other Loan Documents and acknowledges that all other terms, provisions and conditions of the Credit Agreement and the other Loan Documents remain unchanged (except as modified hereby) and are in full force and effect. The Parent hereby ratifies, confirms, acknowledges and agrees that its obligations under the Guaranty

Agreement are in full force and effect and that it continues to unconditionally and irrevocably guarantee the prompt payment in full when due, whether at stated maturity, by acceleration or otherwise, and performance of all of the Obligations. Each Loan Party hereby ratifies, confirms, acknowledges and agrees that all Liens now or hereafter held by the Agent for the benefit of the Secured Parties as security for payment of the Obligations remain in full force and effect. Each of the Parent and the Co-Borrowers hereby acknowledges, agrees, confirms and ratifies that (i) it is a "Co-Borrower" and a "Grantor" under and pursuant to the terms of the Subordination Agreement, (ii) it is bound as party thereto in such capacity, and (iii) all of its obligations and agreements thereunder are and remain in full force and effect.

(b) On or prior to the date which is thirty (30) days after the date hereof (or such later date in the sole discretion of the Administrative Agent), the Parent and Co-Borrowers shall deliver one or more legal opinions of counsel to the Parent and Co-Borrowers (in form and substance satisfactory to the Administrative Agent), which shall include opinions as to such matters required by the Administrative Agent.

**SECTION 6. Governing Law**. This Amendment shall be construed in accordance with, and this Amendment, and all matters arising out of or relating in any way whatsoever to this Amendment (whether in contract, tort, or otherwise) shall be governed by, the law of the State of New York, other than those conflict of law provisions that would defer to the substantive laws of another jurisdiction. This governing law election has been made by the parties in reliance (at least in part) on Section 5-1401 of the General Obligation Law of the State of New York, as amended (as and to the extent applicable), and other applicable law.

**SECTION 7. Execution in Counterparts**. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Amendment. The words "execution," "signed," "signature," and words of like import in this Amendment shall be deemed to include Electronic Signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that nothing herein shall require the Agent to accept electronic signatures in any form or format without its prior consent.

**SECTION 8. Loan Document**. This Amendment is a Loan Document.

**SECTION 9. Headings**. The captions and headings of this Amendment are for convenience of reference only and shall not affect the interpretation of this Amendment.

**SECTION 10.Entire Agreement**. THIS AMENDMENT, TOGETHER WITH THE OTHER LOAN DOCUMENTS, EMBODIES THE ENTIRE AGREEMENT AND

UNDERSTANDING AMONG THE PARTIES HERETO, AND SUPERSEDES ALL PRIOR OR CONTEMPORANEOUS AGREEMENTS AND UNDERSTANDINGS OF SUCH PERSONS, VERBAL OR WRITTEN, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES HERETO RELATING TO THE SUBJECT MATTER HEREOF.

**SECTION 11.Severability**. Any provision of this Amendment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

[Signature Pages Follow]

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

**CO-BORROWERS:**

**SPARK HOLDCO, LLC**
**SPARK ENERGY, LLC**
**SPARK ENERGY GAS, LLC**
**CENSTAR ENERGY CORP.**
**CENSTAR OPERATING COMPANY, LLC**
**OASIS POWER, LLC**
**OASIS POWER HOLDINGS, LLC**
**ELECTRICITY MAINE, LLC**
**ELECTRICITY N.H., LLC**
**PROVIDER POWER MASS, LLC**
**MAJOR ENERGY SERVICES LLC**
**MAJOR ENERGY ELECTRIC SERVICES LLC**
**RESPOND POWER LLC**
**PERIGEE ENERGY, LLC**
**VERDE ENERGY USA, INC.**
**VERDE ENERGY USA COMMODITIES, LLC**
**VERDE ENERGY USA CONNECTICUT, LLC**
**VERDE ENERGY USA DC, LLC**
**VERDE ENERGY USA ILLINOIS, LLC**
**VERDE ENERGY USA MARYLAND, LLC**
**VERDE ENERGY USA MASSACHUSETTS, LLC**
**VERDE ENERGY USA NEW JERSEY, LLC**
**VERDE ENERGY USA NEW YORK, LLC**
**VERDE ENERGY USA OHIO, LLC**
**VERDE ENERGY USA PENNSYLVANIA, LLC**
**VERDE ENERGY USA TEXAS HOLDINGS, LLC**
**VERDE ENERGY USA TEXAS, LLC**
**VERDE ENERGY USA TRADING, LLC**
**VERDE ENERGY SOLUTIONS, LLC**
**HIKO ENERGY, LLC**

By:/s/ James G. Jones II
Name: James G. Jones II
Title: CFO

**PARENT:**

**VIA RENEWABLES, INC. (fka Spark Energy, Inc.)**

By:/s/ James G. Jones II

Name: James G. Jones II
Title: CFO

[Signature Page to Amendment No. 5]

**BANKS:**

**COÖPERATIEVE RABOBANK U.A., NEW YORK BRANCH**, as Agent, an Issuing Bank and a Bank

By: /s/ Bradley Dingwall
Name: Bradley Dingwall
Title: Executive Director

By: /s/ Jan Hendrik de Graaff
Name: Jan Hendrik de Graaff
Title: Jan Hendrick de Graaff

**WOODFOREST NATIONAL BANK,** as a Bank

By: /s/ Andy Gaines
Name: Andy Gaines
Title: SVP

[Signature Page to Amendment No. 5]

**BOKF, NA, A NATIONAL BANKING ASSOCIATION DBA BANK OF TEXAS**, as an Issuing Bank and a Bank

By: /s/ Santiago Acuna
Name: Santiago Acuna
Title: VP, Corporate Banking

[Signature Page to Amendment No. 5]

**WELLS FARGO BANK, NATIONAL ASSOCIATION**, as a Bank

By: /s/ Melina Mackey
Name: Melina Mackey
Title: Vice President

[Signature Page to Amendment No. 5]

**BANCORPSOUTH BANK**, as a Bank

By: /s/ Phillip M. Gonzalez
Name: Phillip M. Gonzalez
Title: Senior Vice President

[Signature Page to Amendment No. 5]

**ORIGIN BANK**, as a Bank

By: /s/ Robert S. Martin
Name: Robert S. Martin
Title: Regional Executive Vice President

[Signature Page to Amendment No. 5]

**VERITEX COMMUNITY BANK (formerly known as Green Bank)**, as a Bank

By: /s/ Greg Christmann
Name: Greg Christmann
Title: Executive Vice President

[Signature Page to Amendment No. 5]

**ZIONS BANCORPORATION, N.A. DBA AMEGY BANK,** as a Bank

By: /s/ Mario Gagetta
Name: Mario Gagetta
Title: Vice President

[Signature Page to Amendment No. 5]

**GULF CAPITAL BANK**, as a Bank

By: /s/ Kristen Mclean
Name: Kristen Mclean
Title: SVP – Relationship Manager

[Signature Page to Amendment No. 5]

Annex I to Amendment No. 5

[AMENDMENTS TO CREDIT AGREEMENT]

Annex II to Amendment No. 5

SCHEDULE 2.01

Commitments

| Bank | Commitment | Credit Percentage |
|---|---|---|
| Coöperatieve Rabobank U.A., New York Branch | $40,000,000 | 17.582418% |
| Woodforest National Bank | $35,000,000 | 15.384615% |
| BOKF, NA, a National Banking Association dba Bank of Texas | $32,500,000 | 14.285714% |
| Wells Fargo Bank, National Association | $25,000,000 | 10.989011% |
| BancorpSouth Bank | $20,000,000 | 8.791209% |
| Origin Bank | $20,000,000 | 8.791209% |
| Veritex Community Bank (formerly known as Green Bank) | $20,000,000 | 8.791209% |
| Zions Bancorporation, N.A. dba Amegy Bank | $20,000,000 | 8.791209% |
| Gulf Capital Bank | $15,000,000 | 6.593406% |
| | $227,500,000 | 100% |

NEITHER THIS NOTE NOR THE SECURITIES REPRESENTED HEREBY HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF EITHER VRI OR SPARK HOLDCO THAT SUCH SECURITIES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO EITHER VRI OR SPARK HOLDCO, (B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT, (C) IN ACCORDANCE WITH RULE 144, RULE 145 OR RULE 144A UNDER THE SECURITIES ACT, IF APPLICABLE, AND IN ACCORDANCE WITH ANY APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS OR (D) IF EITHER VRI OR SPARK HOLDCO HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO EITHER VRI OR SPARK HOLDCO, OR OTHERWISE SATISFIED ITSELF, THAT THE TRANSACTION DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR ANY APPLICABLE U.S. STATE LAWS AND REGULATIONS GOVERNING THE OFFER AND SALE OF SECURITIES.

**AMENDED AND RESTATED**
**SPARK HOLDCO, LLC AND SPARK ENERGY, INC.**
**SUBORDINATED PROMISSORY NOTE**

**Note No. 6** **Issuance Date: October 13, 2021**
**Houston, Texas**

For value received, Via Renewables, Inc. (formerly known as Spark Energy, Inc.), a Delaware corporation ("***VRI***"), and Spark HoldCo, LLC, a Delaware limited liability company ("***Spark HoldCo,***" and together with VRI, the "***Issuers***"), jointly and severally, promises to pay to the order of Retailco, LLC (the "***Holder***"), the principal sum of **Twenty-Five Million and No/100 US Dollars ($25,000,000.00) (**the "***Loan***"**)** or, if less, the aggregate outstanding principal amount of the Advances (as defined below) made by the Holder to the Issuers. This promissory note (this "***Note***") is subject to the following terms and conditions.

**1. Commitment, Advances, Interest, Maturity and Default**

a) The Holder shall make available to the Issuers in one or more disbursements pursuant to subsection (b) (each an "***Advance***") during the period from the Issuance Date until the Maturity Date in an aggregate amount not to exceed the Loan.

b) As a condition to the disbursement of any Advance, the Borrower shall, at least three days prior to the requested disbursement date, deliver to the Holder a written notice (the "Borrowing Notice") setting out: (i) the amount of the Advance, which amount must be in a minimum principal amount of $1,000,000; and (ii) the date on which the Advance is to be disbursed. Upon receipt of the Borrowing Notice, the Holder shall make available to the Issuers on the disbursement date the amount set out in the notice in immediately available funds.

c) Interest on this Note shall accrue on the unpaid principal balance of all Advances from the date each such Advance was made at a rate equal to five percent (5%) per annum, simple interest compounding annually with interest only payable semiannually in arrears on January 1 and July 1 of each year, commencing July 1, 2017 (each an "Interest Payment Date"), provided, however, that Issuers shall have the right to elect to pay-in-kind all or portions of the interest payable under this Note by sending to Holder a notice of such election (a "PIK Election Notice") at least two (2) business days prior to the applicable Interest Payment Date specifying (i) the amount of interest that will be paid in kind and (ii) the amount of cash that will be paid to Holder on the applicable Interest Payment Date, if any. Irrespective of the date a PIK Election Notice is made, the actual payment in kind will occur on the applicable Interest Payment Date. If a PIK Election Notice electing to pay interest in kind is made, on the applicable Interest Payment Date, the amount elected to be paid in kind will be capitalized, compounded and added to the unpaid principal amount of this Note effective as of such Interest Payment Date. Unless otherwise consented to in writing by the Holder, if the Issuers fail to deliver a PIK Election Notice to Holder on or before the date specified above for such notice and do not make an interest payment in cash on the applicable Interest Payment Date for all interest due, it shall be deemed that the Issuers have elected to pay the balance of the interest due on the applicable Interest Payment Date in kind. The principal and interest due under this Note shall be paid in full on January 31, 2025 (the "Maturity Date"), and if any principal or interest under this Note remains unpaid after the Maturity Date the interest rate on such unpaid amounts shall increase from five percent (5%) per annum to ten percent (10%) per annum, simple interest. Subject to Section 2, principal and any accrued but unpaid interest under this Note shall be due and payable upon written demand by the Holder at any time after the Maturity Date.

d) Notwithstanding the provisions of Section 1(c) above and subject to Section 2 below, the entire unpaid principal sum of this Note, together with accrued and unpaid interest thereon, shall become immediately due and payable upon (i) the execution by either Issuer of a general assignment for the benefit of creditors, (ii) the filing by or against either Issuer of a petition in bankruptcy or any petition for relief under the federal bankruptcy act or the continuation of such petition without dismissal for a period of ninety (90) days or more, (iii) the appointment of a receiver or trustee to take possession of the property or assets of either Issuer or (iv) one or more of the Issuers is involved either directly or indirectly in a Corporate Transaction; provided, however, that this subsection (iv) shall not apply until the later of (A) the date the Discharge of Senior Obligations (as defined in the Subordination Agreement (as defined below)) occurs, and (B) January 31, 2025. For all purposes hereof, the term "Corporate Transaction" means (a) a sale by either of the Issuers of all or substantially all of its assets, (b) a merger of one or more of the Issuers with or into another entity (if after such merger the holders of a majority of such Issuer's voting securities immediately prior to the transaction do not hold a majority of the voting securities of the successor entity) or (c) the transfer of more than fifty percent (50%) of such Issuer's voting securities to a natural person, corporation, limited partnership, general partnership, limited liability company, joint stock company, joint venture, association, company, estate, trust, bank trust company, land trust, business trust, or other organization, whether or not a legal entity, custodian, trustee-executor, administrator, nominee or entity in a representative capacity and any executive, legislative, judicial, regulatory or administrative agency, body, commission, department, board, court, tribunal, arbitrating body or authority of the United States or any foreign country, or any state, local or other governmental subdivision thereof.

**2. Subordination**

a) The indebtedness evidenced by this Note, including principal and interest, is hereby expressly subordinated and junior, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all of the Issuers' Senior Indebtedness. "Senior Indebtedness" shall mean the principal of and unpaid interest and premium, if any, on (i) indebtedness of the Issuers or with respect to which either or both of the Issuers is a guarantor, whether outstanding on the date hereof or hereafter created, to banks, insurance companies or other lending or thrift institutions regularly engaged in the business of lending money, whether or not secured, and (ii) any deferrals, renewals, extensions, refunding, amendment, modification or any debentures, notes or other evidence of indebtedness issued in exchange for such Senior Indebtedness.

b) Upon any receivership, insolvency, assignment for the benefit of creditors, bankruptcy, reorganization, or arrangement which creditors (whether or not pursuant to bankruptcy or other insolvency laws), sale of all or substantially all of the assets, dissolution, liquidation, or any other marshaling of the assets and liabilities of the Issuers or in the event this Note shall be declared due and payable, (i) no amount shall be paid by the Issuers, whether in cash or property in respect of the principal of or interest on this Note at the time outstanding, unless and until the full amount of any Senior Indebtedness then outstanding shall be paid in full, and (ii) no claim or proof of claim shall be filed with either Issuer or otherwise by or on behalf of the holder of this Note which shall assert any right to receive any payments in respect of the principal of and interest on this Note except subject to the payment in full of all of the Senior Indebtedness then outstanding.

c) If an event of default has occurred with respect to any Senior Indebtedness, permitting the holder thereof to accelerate the maturity thereof, then unless and until such event of default shall have been cured or waived or shall have ceased to exist, or all Senior Indebtedness shall have been paid in full, no payment shall be made in respect of the principal of or interest on this Note.

d) Nothing contained in the preceding paragraphs shall impair, as between the Issuers and the Holder, the obligation of the Issuers, which is absolute and unconditional, to pay to the Holder hereof the principal hereof and interest hereon as and when the same shall become due and payable, or shall prevent the Holder, upon default hereunder, from exercising all rights, powers and remedies otherwise provided herein or by applicable law, all subject to the rights, if any, of the holders of Senior Indebtedness under the preceding paragraphs to receive cash or other properties otherwise payable or deliverable to the Holder pursuant to this Note. This Note and the indebtedness hereunder (including any payments thereof) are subject to that certain Subordination and Intercreditor Agreement dated as of May 19, 2017 among VRI, Spark HoldCo, Spark Energy Gas, LLC, Spark Energy, LLC, Censtar Energy Corp., Censtar Operating Company, LLC, Oasis Power, LLC, Oasis Power Holdings, LLC, Electricity Maine, LLC, Electricity N.H., LLC, Provider Power Mass, LLC, Major Energy Services LLC, Major Energy Electric Services LLC, Respond Power LLC, Perigee Energy, certain other affiliates of VRI, Cooperatieve Rabobank U.A., New York Branch and Holder (as amended and as may be further amended, restated, supplemented or otherwise modified from time to time, the "Subordination Agreement").

**3. Payment**

All payments shall be made in lawful money of the United States of America at such place as the Holder hereof may from time to time designate in writing to either VRI or Spark HoldCo. Payment shall be credited first to the accrued but unpaid interest then due and payable and the remainder applied to principal. Any amounts due in connection with this Note may be prepaid in whole or in part at any time without penalty upon ten (10) days' advance notice by either VRI or Spark HoldCo to the registered holder of this Note.

**4. Payment of Taxes**

Issuers, jointly and severally, will pay all taxes (other than taxes based upon income or gross margin) and other governmental charges, if any, that may be imposed with respect to the issue or delivery of this Note.

**5. Representations and Warranties of Holder**

Holder hereby makes the representations and warranties set forth on attached Appendix A.

**6. Transfer; Successors and Assigns**

The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Notwithstanding the foregoing, except for a pledge of this Note to a bank or other financial institution that creates a mere security interest in this Note in connection with a bona fide loan transaction, the Holder may not assign, pledge, or otherwise transfer this Note without the prior written consent of both Issuers. Subject to the preceding sentence, this Note may be transferred only upon surrender of the original Note to either Issuer for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to both Issuers, and, thereupon, a new note for the same principal amount and interest will be issued to, and registered in the name of, the transferee. Interest and principal are payable only to the registered holder of this Note.

**7. Evidence of Debt**

The Holder is authorized to record on the grid attached hereto as Appendix B each Advance made to the Issuers and each payment or prepayment thereof. The entries made by the Holder shall, to the extent permitted by applicable Law, be prima facie evidence of the existence

and amounts of the obligations of the Borrower therein recorded; provided, however, that the failure of the Holder to record such payments or prepayments, or any inaccuracy therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Advances in accordance with the terms of this Note.

**8. Governing Law; Jurisdiction**

This Note shall be governed by and construed under the laws of the State of Texas as applied to agreements among Texas residents, entered into and to be performed entirely within the State of Texas, without giving effect to principles of conflicts of law. The parties irrevocably consent to the jurisdiction and venue of the state and federal courts located in Harris County, Texas in connection with any action relating to this Note.

**9. Specific Performance**

Issuers acknowledge and agree that the remedies at law of Holder in the event of any default by VRI or Spark HoldCo in the performance of or compliance with any of the terms of this Note are not adequate and may be enforced by a decree for the specific performance of any agreement contained herein or by an injunction against a violation of any of the terms hereof or otherwise.

**10. Notices**

Any notice required or permitted by this Note shall be given in writing and shall be deemed effectively given (a) upon personal delivery to the party to be notified, (b) upon confirmation of receipt by fax by the party to be notified, (c) one (1) business day after deposit with a reputable overnight courier, prepaid for overnight delivery and addressed as set forth in subsection (d), or (d) three (3) days after deposit with the United States Post Office, postage prepaid, registered or certified with return receipt requested and addressed to the party to be notified at the address of such party indicated directly below, or at such other address as such party may designate by ten (10) days' advance written notice to the other party given in the foregoing manner.

**VRI**
12140 Wickchester Ln.
Suite 100
Houston, TX 77079
Attn: Chief Executive Officer

**Spark HoldCo**
12140 Wickchester Ln.
Suite 100
Houston, TX 77079
Attn: Chief Executive Officer

**Holder**
12140 Wickchester Ln.
Suite 100
Houston, TX 77079
Attn: Chief Executive Officer

**11. Amendments and Waivers**

Any term of this Note may be amended only with the written consent of the Issuers and the Holder. Any amendment or waiver effectuated in accordance with this Section 11 shall be binding upon Issuers, Holder and each transferee of this Note.

**12. Shareholders, Officers and Directors Not Liable**

In no event shall any shareholder, officer or director of either VRI or Spark HoldCo be liable for any amounts due or payable pursuant to this Note.

**13. Action to Collect on Note**

If action at law or equity is necessary to enforce or interpret the terms of this Note, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

**14. Severability**

If any provision of this Note shall be judicially declared to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of the parties under this Note would not be materially and adversely affected thereby, such provision shall be fully separable, and this Note shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part thereof, and the remaining provisions of this Note shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom.

**15. Waiver of Jury Trial**

Each of VRI, Spark HoldCo and Holder hereby waives its right to trial by jury in any claim (whether based upon contract, tort or otherwise) under, related to or arising in connection with this Note.

**16. Waivers By Issuers**

**EACH OF VRI AND SPARK HOLDCO HEREBY WAIVE PRESENTMENT, NOTICE OF DISHONOR, PROTEST AND NOTICE OF PROTEST, AND ANY OR ALL OTHER NOTICES OR DEMANDS IN CONNECTION WITH THE DELIVERY, ACCEPTANCE, PERFORMANCE, DEFAULT, ENDORSEMENT OR COLLECTION OF THIS NOTE.**

**17. Amendment and Restatement**

This Note amends and restates in its entirety the Subordinated Promissory Note dated July 31, 2020 (as amended, supplemented or otherwise modified from time to time prior to the effectiveness hereof) made by VRI and Spark HoldCo in favor of the Holder.

[*Signature Page Follows*]

**VRI:**

**VIA RENEWABLES, INC.**

By: /s/James G. Jones II
Name: James G. Jones II
Title: Chief Financial Officer

**SPARK HOLDCO:**

**SPARK HOLDCO, LLC**

By: /s/ James G. Jones II
Name: James G. Jones II
Title: Chief Financial Officer

**AGREED TO AND ACCEPTED:**

**HOLDER:**

**RETAILCO, LLC**

By: /s/ William K. Maxwell
MMMMMmmmmMaxwellMaxwell_____
Name: William K Maxwell _____
Title: Chief Executive Officer

***Signature Page to Spark HoldCo, LLC and Via Renewables, Inc.***
***Subordinated Promissory Note***

**APPENDIX A**
**To Subordinated Promissory Note**

**REPRESENTATIONS AND WARRANTIES OF THE HOLDER**

The Holder represents and warrants to Issuers as follows:

A. **Investment Intent.** Holder hereby represents and warrants that Holder is acquiring the Note for the Holder's own account, not as nominee or agent, for beneficial interests and investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act of 1933, as amended (the "Securities Act"), or any state securities laws.

B. **Restricted Securities**. The Holder understands that this Note is not a "restricted security" under the federal securities laws inasmuch as it is being acquired from Issuers in a transaction not involving a public offering and that under such law and applicable regulations such securities may be resold without registration under the Securities Act only in certain limited circumstances. The Holder represents that is it familiar with Rule 144, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.

C. **Information Made Available to Holder.** Holder acknowledges that the Issuers have made available to the Holder, or to the Holder's attorney, accountant or representative, all documents that the Holder has requested, and the Holder has requested all documents and other information that the Holder has deemed necessary to consider in connection with an investment in Issuers. Holder acknowledges that it has had an opportunity to consult with Issuers management regarding VRI's and Spark HoldCo's prospects and the risks associated with VRI's and Spark HoldCo's business. Holder acknowledges that it has had an opportunity to review financial information relating to VRI's and Spark HoldCo's businesses. Holder is familiar with the current capitalization and ownership of Issuers.

**APPENDIX B**

**To Subordinated Promissory Note**

**ADVANCES AND PAYMENTS ON THE LOAN**

| Date of Advance | Amount of Advance | Amount of Principal Paid | Unpaid Principal Amount of Note | Name of Person Making the Notation |
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# Via Renewables, Inc. Announces Dividend on Common and Preferred Stock; Amendment and Extension of Credit Facilities

HOUSTON, October 20, 2021 (ACCESSWIRE) – Via Renewables, Inc. ("Via Renewables" or the "Company") (NASDAQ: VIA), an independent retail energy services company, announced today that its Board of Directors has declared a quarterly cash dividend for the third quarter of 2021 in the amount of $0.18125 per share on its Class A Common Stock. This amount represents an annualized dividend of $0.725 per share. The third quarter dividend will be paid on December 15, 2021 to holders of record of Via Renewables' Class A Common Stock on December 1, 2021.

Additionally, in accordance with the terms of the 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock ("Series A Preferred Stock") of the Company, the Board of Directors has declared a quarterly cash dividend in the amount of $0.546875 per share on the Series A Preferred Stock. This amount represents an annualized dividend of $2.1875 per share. The dividend will be paid on January 17, 2022 to holders of record of Via Renewables' Series A Preferred Stock on January 3, 2022.

Via Renewables also announced an amendment and extension (the "Amendment") of its senior secured credit facility (the "Facility") and an extension of its $25 million subordinated debt facility with its majority shareholder. The Facility, which was set to mature on July 31, 2022, now has a maturity date of October 13, 2023. The subordinated facility, which was set to mature on January 31, 2023, now has a maturity date of January 31, 2025.

"These facilities are pivotal for Via Renewables as the company explores new opportunities in sustainable energy solutions," said Keith Maxwell, Via Renewables' President and Chief Executive Officer. "We are excited about the new Acquisition Line in our senior credit facility which will be key for exploring new solutions. The Company is well positioned with ample liquidity to continue to streamline the business and pursue opportunities in the marketplace. We thank each of our lenders for renewing their commitments and continuing their support of our business."

**About Via Renewables, Inc.**

Via Renewables, Inc. is an independent retail energy services company founded in 1999 that provides residential and commercial customers in competitive markets across the United States with an alternative choice for their natural gas and electricity under our well-established and well-regarded brands, including Spark Energy, Major Energy, Provider Power, and Verde Energy. Headquartered in Houston, Texas, Via Renewables currently operates in 19 states and serves 100 utility territories. Via Renewables offers its customers a variety of product and service choices, including stable and predictable energy costs and green product alternatives.

We use our website as a means of disclosing material non-public information and for complying with our disclosure obligations under Regulation FD. Investors should note that new materials, including press releases, updated investor presentations, and financial and other filings with the Securities and Exchange Commission are posted on the Via Renewables Investor Relations website at ViaRenewables.com. Investors are urged to monitor our website regularly for information and updates about the Company.

**Contact:** Via Renewables, Inc.

**Investors:**

Mike Barajas, 832-200-3727

**Media:**

Kira Jordan, 832-255-7302