

SPARK ENERGY, INC.

FORM 8-K (Current report filing)

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Address	12140 WICKCHESTER LANE SUITE 100 HOUSTON, TX, 77079
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**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): July 11, 2019

Spark Energy, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware
**(State or Other Jurisdiction
of Incorporation)**

001-36559
**(Commission
File Number)**

46-5453215
**(IRS Employer
Identification Number)**

12140 Wickchester Ln, Ste 100
Houston, Texas 77079
(Address of Principal Executive Offices)
(Zip Code)

(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:

<u>Title of each class</u>	<u>Trading Symbols(s)</u>	<u>Name of exchange on which registered</u>
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.

Effective July 11, 2019, Spark Energy, Inc., a Delaware corporation (the “Company”), entered into a TRA Termination and Release Agreement (the “Release Agreement”), by and among the Company, Spark HoldCo, LLC, a Delaware limited liability company and subsidiary of the Company (“Spark HoldCo”), Retailco, LLC, a Texas limited liability company (“Retailco”), NuDevco Retail, LLC, a Delaware limited liability company (“NuDevco Retail” and, together with Retailco, the “Members”), and W. Keith Maxwell III.

The Release Agreement provides for a full and complete termination of any further payment, reimbursement or performance obligation of the Company and Members under that certain Tax Receivable Agreement (the “TRA”), dated August 1, 2014, by and among the Company, Spark HoldCo, NuDevco Retail Holdings, LLC (as predecessor in interest to Retailco), NuDevco Retail and Mr. Maxwell, whether past, accrued or yet to arise, including, without limitation, (i) the obligations of the Company with respect to any future and undetermined TRA payment obligation arising out of exchanges of Spark HoldCo units (and corresponding Class B Shares (as defined below)) or any early termination payment under the TRA, or (ii) any reimbursement or claw back payments the Members may owe the Company under the TRA. Certain minor provisions of the TRA, such as notice provisions, dispute resolution provisions, governing law and confidentiality obligations survive the termination of the TRA.

Pursuant to the Release Agreement, the Company will make a cash payment of approximately \$11.2 million to the Members. In connection with the termination of the TRA, Spark HoldCo will be required to make a payment of approximately \$16.3 million to the Members under the Spark HoldCo Third Amended and Restated Limited Liability Company Agreement, as amended, which amount the Members have agreed will be advanced to the Company and Spark HoldCo under the terms of an existing subordinated promissory note.

The Release Agreement contains a mutual release of claims, as well as customary representations, warranties and covenants. A copy of the Release Agreement 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 Release Agreement and is qualified in its entirety by the complete text of the Release Agreement.

Retailco and NuDevco Retail are owned indirectly by Mr. Maxwell, who serves as the Chairman of the Board of Directors of the Company. Mr. Maxwell, through Retailco and NuDevco Retail, owns a majority of the Company’s voting power. The terms of the Release Agreement were approved by a special committee of the Board of Directors composed exclusively of independent directors.

Item 1.02. Termination of a Material Definitive Agreement.

The description of the circumstances surrounding the termination of the TRA in Item 1.01 above is incorporated by reference into this Item 1.02. The TRA established the sharing of certain tax benefits realized by the Company as a result of the Members exchanging their membership units in Spark HoldCo, together with an equal number of shares of the Company’s Class B common stock, par value \$0.01 per share (the “Class B Shares”) for shares of the Company’s Class A common stock, par value \$0.01 per share (the “Class A Shares”). The TRA provided for the payment by the Company to the Members of 85% of the net cash savings, if any, in U.S. federal, state and local income tax or franchise tax that the Company actually realized (or was deemed to realize in certain circumstances) in periods after its initial public offering as a result of (i) any tax basis increases resulting from the purchase by the Company of Spark HoldCo units from Retailco (or its predecessor in interest) prior to or in connection with the Company’s initial public offering, (ii) any tax basis increases resulting from the exchange of Spark HoldCo units for shares of Class A common stock pursuant to the exchange right (or resulting from an exchange of Spark HoldCo units for cash as described above) and (iii) any imputed interest deemed to be paid by the Company as a result of, and additional tax basis arising from, any payments the Company made under the TRA. In addition, payments the Company made under the TRA

were increased by any interest accrued from the due date (without extensions) of the corresponding tax return. The Company retained the benefit of the remaining 15% of these tax savings.

Any TRA payments that would have been due with respect to a given taxable year were expected to be paid in December of the subsequent calendar year. In certain circumstances, the Company could have deferred or partially deferred any payment due (a "TRA Payment"). During the five-year period commencing October 1, 2014, the Company would defer all or a portion of any TRA Payment owed pursuant to the TRA to the extent that Spark HoldCo did not generate sufficient Cash Available for Distribution (as defined below) during the four-quarter period ending September 30th of the applicable year in which the TRA Payment was to be made in an amount that equals or exceeds 130% (the "TRA Coverage Ratio") of the Total Distributions (as defined below) paid in such four-quarter period by Spark HoldCo. For purposes of computing the TRA Coverage Ratio:

- "Cash Available for Distribution" was generally defined as the adjusted EBITDA of Spark HoldCo for the applicable period, less (i) cash interest paid by Spark HoldCo, (ii) capital expenditures of Spark HoldCo (exclusive of customer acquisition costs) and (iii) any taxes payable by Spark HoldCo; and
- "Total Distributions" was defined as the aggregate distributions necessary to cause the Company to receive distributions of cash equal to (i) the targeted quarterly distribution the Company intended to pay, plus (ii) the estimated taxes payable by the Company during such four-quarter period, plus (iii) the expected TRA Payment payable during the calendar year for which the TRA Coverage Ratio was being tested.

In the event that the TRA Coverage Ratio was not satisfied in any calendar year, the Company would defer all or a portion of the TRA Payment to the Members under the TRA to the extent necessary to permit Spark HoldCo to satisfy the TRA Coverage Ratio (and Spark HoldCo was not required to make and would not make the pro rata distributions to the Members with respect to the deferred portion of the TRA Payment). If the TRA Coverage Ratio was satisfied in any calendar year, the Company would pay the Members the full amount of the TRA Payment.

Following the five-year deferral period, the Company would have been obligated to pay any outstanding deferred TRA Payments (x) to the extent such deferred TRA Payments did not exceed (i) the lesser of the Company's proportionate share of aggregate Cash Available for Distribution of Spark HoldCo during the five-year deferral period or the cash distributions actually received by the Company during the five-year deferral period, reduced by (ii) the sum of (a) the aggregate target quarterly dividends (which, for the purposes of the TRA, is \$0.18125 per share of Class A common stock and \$0.546875 per share of Series A Preferred Stock per quarter) during the five-year deferral period, (b) the Company's estimated taxes during the five-year deferral period, and (c) all prior TRA Payments and (y) if with respect to the quarterly period during which the deferred TRA Payment is otherwise paid or payable, Spark HoldCo had or reasonably determined it would have amounts necessary to cause the Company to receive distributions of cash equal to the target quarterly distribution payable during that quarterly period. Any portion of the deferred TRA Payments not payable due to these limitations will no longer be payable.

Item 7.01 Regulation FD Disclosure.

On July 15, 2019, the Company issued a press release announcing the Release Agreement and termination of the TRA. A copy of the 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 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
10.1	<u>TRA Termination and Release Agreement, dated July 11, 2019, by and among Spark Energy, Inc., Spark HoldCo, LLC, Retailco, LLC, NuDevco Retail, LLC and W. Keith Maxwell III.</u>
99.1	<u>Press Release of Spark Energy, Inc. dated July 15, 2019.</u>

Exhibit Index

Exhibit No.	Description
10.1	TRA Termination and Release Agreement, dated July 11, 2019, by and among Spark Energy, Inc., Spark HoldCo, LLC, Retailco, LLC, NuDevco Retail, LLC and W. Keith Maxwell III.
99.1	Press Release of Spark Energy, Inc. dated July 15, 2019.

SIGNATURES

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.

Dated: July 16, 2019

SPARK ENERGY, INC.

By: /s/ James G. Jones II

Name: James G. Jones II

Title: Chief Financial Officer

TRA TERMINATION AND RELEASE AGREEMENT

THIS TRA TERMINATION AND RELEASE AGREEMENT (this “Agreement”), is entered into as of July 11, 2019 (the “Effective Date”) by and among Spark Energy, Inc., a Delaware corporation (“SEI”), Spark HoldCo, LLC, a Delaware limited liability company (“Spark HoldCo”), Retailco, LLC, a Texas limited liability company (“Retailco”), NuDevco Retail, LLC, a Delaware limited liability company (“NuDevco Retail” and, together with Retailco, the “Members”), and W. Keith Maxwell III (“Agent”).

RECITALS

WHEREAS, SEI, Spark HoldCo, NuDevco Retail, NuDevco Retail Holdings, LLC, a Delaware limited liability company (“NuDevco Retail Holdings”), and the Agent entered into that certain Tax Receivable Agreement, dated as of August 1, 2014, (the “TRA”);

WHEREAS, pursuant to an internal reorganization, Retailco succeeded to the interest of NuDevco Retail Holdings under (1) the TRA, (2) that certain limited liability company agreement of Spark HoldCo, as amended (the “Spark HoldCo LLC Agreement”), and (3) that certain Registration Rights Agreement, effective as of August 1, 2014, by and among SEI, NuDevco Retail and NuDevco Retail Holdings (the “Registration Rights Agreement”);

WHEREAS, the TRA sets forth the agreements among the parties regarding the sharing of certain tax benefits realized by SEI as a result of the Members exchanging their membership units in Spark HoldCo, together with an equal number of shares of SEI’s Class B common stock, par value \$0.01 per share (the “Class B Shares”) for shares of SEI’s Class A common stock, par value \$0.01 per share (the “Class A Shares”) or cash, and such agreements under the TRA entitle the Members to certain payments and other rights under the TRA (the “TRA Rights”);

WHEREAS, Retailco, LLC is the Holder of the Amended and Restated Spark HoldCo, LLC and Spark Energy, Inc. Subordinated Promissory Note issued on June 13, 2019 (the “Subordinated Note”);

WHEREAS, at various points in time, both past and present, SEI, Spark HoldCo and the Members have discussed a proposed full and complete termination of the TRA and the obligations of the parties thereunder in exchange for either the issuance of stock or the installment payment of a cash settlement amount to the Members (the “Proposal”);

WHEREAS, by Unanimous Written Consent dated February 20, 2018, the Board of Directors of SEI appointed a Special Committee of independent directors for the purpose of reviewing, evaluating and responding to the Proposal and determining whether to grant approval of the transactions contemplated by the Proposal (the “Special Committee”);

WHEREAS, in connection with the negotiation of the Proposal and the finalization of this Agreement, the Special Committee has engaged Stout Advisory of Houston, Texas (“Stout”) for the purpose of opining on the fairness of the Agreement to SEI and its shareholders who are unaffiliated with the Member Parties (defined below) (the “Stout Fairness Opinion”);

WHEREAS, SEI, the Members and Agent have agreed to the Proposal in its present form as more specifically provided below; and

WHEREAS, Spark HoldCo is committed to providing the necessary distributions to SEI for SEI to meet the obligations imposed upon it under the terms of this Agreement;

WHEREAS, any defined terms used in this Agreement that are not otherwise defined herein shall have the meanings provided for such defined terms in the TRA; and

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereto agree as follows:

AGREEMENT

1. Termination Consideration. Subject to the Special Committee receiving the Stout Fairness Opinion, as consideration for the complete and full termination of the TRA and all obligations thereunder as further provided in this Agreement, upon final execution of this Agreement, SEI agrees to pay the Members a cash payment of \$11,239,250 via wire transfer to accounts set forth in written wiring instructions provided by the Members to SEI, on July 15, 2019 (collectively, the “Termination Consideration”).

2. Retailco, LLC Commitment Under Subordinated Note. Contemporaneous with Spark HoldCo’s distribution of the Termination Consideration to SEI and SEI’s payment of the Termination Consideration to the Members, Spark HoldCo will be required to make proportionate “gross up” payments to the Members pursuant to the terms of the Spark HoldCo LLC Agreement totaling approximately \$16,260,750 (the “Gross Up Payments”). Immediately upon receiving the Gross Up Payments, the Members and Retailco, LLC agree that it shall by no later than July 15, 2019 advance funds in the amount of the Gross Up Payments to SEI and Spark HoldCo pursuant to the terms of the Subordinated Note.

3. Full and Complete TRA Termination. Subject to the condition precedent of the Special Committee receiving the Stout Fairness Opinion, the following is agreed between the Parties:

(a) Termination of TRA Payment Obligations. Notwithstanding anything contained in the TRA to the contrary, effective upon the parties entering into this Agreement, except for the Surviving TRA Terms, neither SEI nor the Members shall have any further payment, reimbursement or performance obligations to one another under the TRA, whether past, accrued or yet to arise, including, without limitation, (i) the obligations of SEI with respect to any future and yet to be determined TRA payment obligations arising out of the exercise of Exchange Rights associated with the Spark HoldCo Units or an Early Termination Payment under the TRA, or (ii) any reimbursement or claw back payments the Members may owe SEI under the TRA.

(b) Other Obligations. Notwithstanding anything contained in the TRA or the Spark HoldCo LLC Agreement to the contrary, effective upon the parties entering into this Agreement, all other rights and obligations under the TRA shall terminate; *provided however*, that Sections 6.2 (Consistency), 6.3 (Cooperation), 7.1 (Notices), 7.4 (Governing Law), 7.8 (Resolution of Disputes) and 7.12 (Confidentiality) of the TRA (collectively, the “Surviving TRA Terms”) shall survive and remain in effect. For purposes of any notices to be provided pursuant to Section 7.1 of the TRA, the addresses of the parties are revised as provided with each party’s signature set forth below.

(c) No Early Termination Notice. Notwithstanding any other provisions of this Agreement or the TRA to the contrary, SEI and the Members agree that the entering into of this Agreement does not constitute an Early Termination Notice (as defined in the TRA).

4. Mutual Release.

(a) Mutual Release of Claims. Subject to and effective immediately upon the execution of this Agreement by the parties, (i) the Member Parties irrevocably release, acquit, and discharge the SEI Released Parties from any and all Claims (defined below), and (ii) SEI and Spark HoldCo irrevocably release, acquit, and discharge the Member Parties (defined below) from any and all Claims.

(b) “Claims” means all claims, causes of action, demands, obligations, or liabilities of any kind, whether accrued or unaccrued, known or unknown, suspected or unsuspected, concealed or hidden, fixed or contingent, matured or unmatured, liquidated or unliquidated, foreseen or unforeseen, solely relating to or arising out of the TRA, including but not limited to any and all performance or payment obligations relating thereto, but does not include claims for enforcement, default, damages, or breach with respect to any provision of this Agreement or the Surviving TRA Terms.

(c) “Member Parties” means each of the Members and the Agent, their respective affiliates, parent companies, predecessors, successors and assigns, and each of their respective employees, officers, board members, board committees, legal and financial advisors, partners, managers, members, and shareholders, other than the SEI Released Parties.

(d) “SEI Released Parties” means each of SEI, Spark HoldCo, and their direct and indirect subsidiaries, and each of their respective employees, officers, board members, board committees, legal and financial advisors, partners, managers, members, and shareholders, other than the Member Parties.

5. Representations, Warranties and Covenants by the Parties.

5.1 Representations, Warranties and Covenants of the Members. The Members represent, warrant and covenant to SEI the following:

(a) Authority. Members have full power and authority to enter into this Agreement and this Agreement constitutes valid and legally binding obligations of Members, enforceable in accordance with their respective terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally.

(b) Title to and No Assignment of TRA Rights. Members have good and marketable title to the TRA Rights under the TRA and Members have not, directly or indirectly, assigned or transferred or purported to assign or transfer to any person or entity any of the TRA Rights or any portion thereof. No Person has any outstanding option or preemptive or similar right to purchase any of TRA Rights or any of the Members' rights under the TRA.

(c) Consents. No consent, approval, qualification, order or authorization of, or filing with, any Person or Governmental Authority is required on the part of Members in connection with Members' valid execution, delivery or performance of this Agreement.

5.2 Representations, Warranties and Covenants of SEI. SEI represents, warrants and covenants to the Members the following:

(a) Authority. SEI has full power and authority to enter into this Agreement, and this Agreement constitutes a valid and legally binding obligation of SEI, enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally.

(b) Consents. No consent, approval, qualification, order or authorization of, or filing with, any Person or Governmental Authority is required on the part of SEI in connection with SEI's valid execution, delivery or performance of this Agreement.

5.3 Representations, Warranties and Covenants of Spark HoldCo. Spark HoldCo represents, warrants and covenants to the Members the following:

(a) Authority. Spark HoldCo has full power and authority to enter into this Agreement, and this Agreement constitutes a valid and legally binding obligation of Spark HoldCo, enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally.

(b) Consents. No consent, approval, qualification, order or authorization of, or filing with, any Person or Governmental Authority is required on the part of Spark HoldCo in connection with Spark HoldCo's valid execution, delivery or performance of this Agreement.

(c) Financial Support and Distributions to SEI. Subject to the limitations imposed on Spark HoldCo under either applicable law or the Senior Obligations, Spark

HoldCo will from time to time provide the cash distributions (i) to SEI in the amounts necessary for SEI to make the payments to which it is obligated under Section 1 of this Agreement, and (ii) to the other Members as required under the Spark HoldCo LLC Agreement.

6. Further Assurances. If any further action is reasonably necessary to carry out the intent and purpose of this Agreement, then each party shall take such further action (including the execution and delivery of further documents) as any other party reasonably requests to carry out such purpose, including executing any agreement or providing additional information, documents and other materials for purposes of preparing any financial statement, preparing any tax return or contesting or defending any audit, examination or controversy in connection with the transactions contemplated by this Agreement.

7. Public Disclosures.

(a) Disclosure Restrictions. Nothing in this Agreement shall limit a party's ability to make such disclosures regarding this Agreement or the transactions contemplated by this Agreement (including, without limitation, filing this Agreement with the Securities and Exchange Commission, or any other comparable foreign, domestic, state and local securities regulatory authority to which SEI is subject, to the extent required or deemed appropriate by such party, taking into account the advice of such party's counsel, to comply with applicable law, including federal securities laws, rules or regulations or the requirements of any exchange on which a party's (or its affiliate's) securities may be listed, quoted or traded, provided such party allows the other party reasonable time to review and suggest comments on any such disclosure prior to the issuance thereof.

(b) Non-Compliance with Disclosure Restrictions. Each party shall be liable for any failure of its affiliates or representatives to comply with the Surviving TRA Terms and the restrictions set forth under Section 6(a).

8. Authority to Execute Agreement. By signing below, each party warrants and represents that the person signing this Agreement on its behalf has authority to bind that party and that the party's execution of this Agreement is not in violation of any by-law, covenants and/or other restrictions placed upon them.

9. Costs and Expenses. Each party shall be responsible for its own costs and expenses incurred in connection with the transactions contemplated by this Agreement, including but not limited to any further actions requested pursuant to Section 5 of this Agreement.

10. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, as outlined in Section 7.4 of the TRA.

11. Entire Agreement; No Third Party Beneficiaries. Subject to and except as may be specifically provided herein, this Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement shall be binding upon and inure solely to the benefit of each

party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

12. **DISCLAIMER OF RELIANCE**: EACH PARTY EXPRESSLY WARRANTS THAT HE, SHE, OR IT HAS CAREFULLY READ THIS AGREEMENT (INCLUDING THIS DISCLAIMER OF RELIANCE SET FORTH IN APPROPRIATELY CONSPICUOUS LANGUAGE) AND ANY EXHIBITS ATTACHED TO THIS AGREEMENT, UNDERSTANDS THEIR CONTENTS, AND SIGNS THIS AGREEMENT AS HIS, HER, OR ITS OWN FREE ACT. EACH PARTY EXPRESSLY WARRANTS THAT NO PROMISE OR AGREEMENT WHICH IS NOT HEREIN EXPRESSED HAS BEEN MADE TO HIM, HER, OR IT IN EXECUTING THIS AGREEMENT, AND THAT HE, SHE, OR IT IS NOT RELYING UPON (INDEED, EXPRESSLY DISCLAIMS RELIANCE UPON) ANY STATEMENT OR REPRESENTATION OF ANY PARTY OR ANY AGENT OF THE PARTIES BEING RELEASED HEREBY. EACH PARTY AGREES THIS IS AN ARM'S-LENGTH TRANSACTION (NO FIDUCIARY RELATIONSHIP EXISTS) AND IS RELYING SOLELY ON HIS, HER, OR ITS OWN JUDGMENT, AND EACH PARTY HAS BEEN REPRESENTED BY, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY BUT IS OF THEIR OWN FREE WILL NOT REPRESENTED BY, LEGAL COUNSEL IN THIS MATTER, AS WELL AS CONSULT WITH ANY FINANCIAL, TAX OR OTHER ADVISORS. ANY PARTY WHO IS UNREPRESENTED COVENANTS THAT HE, SHE, OR IT HAS READ THE ENTIRE CONTENTS OF THIS AGREEMENT IN FULL, AND IS AWARE OF THE LEGAL CONSEQUENCES OF THIS AGREEMENT. EACH PARTY AGREES THAT THIS DISCLAIMER IS AN EFFECTIVE DISCLAIMER OF RELIANCE UNDER TEXAS LAW.

13. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart. Delivery of an executed signature page to this Agreement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

14. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible

[Signature page follows]

IN WITNESS WHEREOF, the parties have duly executed this Termination and Release Agreement as of the Effective Date.

SPARK ENERGY, INC.

By: /s/ Nathan Kroeker
Name: Nathan Kroeker
Title: CEO
Address: 12140 Wickchester Lane, Suite 100,
Houston, Texas 77079
Attention: Special Committee –Ken Hardwick

SPARK HOLDCO, LLC

By: /s/ Nathan Kroeker
Name: Nathan Kroeker
Title: CEO

Address: 12140 Wickchester Lane, Suite 100
Houston, Texas 77079

Attention: Mr. Nathan Kroeker

RETAILCO, LLC

By: /s/ Todd Gibson
Name: Todd Gibson
Title: CFO
Address: 12140 Wickchester Lane, Suite 100
Houston, Texas 77079
Attention: Mr. Todd Gibson

NUDEVCO RETAIL, LLC

By: /s/ Todd Gibson

Name: Todd Gibson

Title: CFO

Address: 12140 Wickchester Lane, Suite 100
Houston, Texas 77079
Attention: Mr. Todd Gibson

/s/ W. Keith Maxwell

W. KEITH MAXWELL, III

Address: 12140 Wickchester Lane, Suite 100
Houston, Texas 77079

[Signature page for TRA Termination and Release Agreement]

Spark Energy, Inc. Announces Termination of Tax Receivable Agreement

HOUSTON, July 15, 2019 (ACCESSWIRE) -- Spark Energy, Inc. (“Spark” or the “Company”) (NASDAQ: SPKE), announced today that it has entered into a TRA Termination and Release Agreement (the “Release Agreement”), and agreed to pay \$11.2 million to terminate and settle all present and future obligations under the Tax Receivable Agreement (“TRA”) that was established at the time of Spark’s initial public offering in 2014. At March 31, 2019, Spark carried a TRA liability of \$27.6 million. This settlement will result in a \$16.4 million pre-tax benefit that will result in an increase in stockholders equity.

“We are extremely pleased to be able to settle our obligations at a significant discount to the calculated early termination payment under the TRA” said Nathan Kroeker, Spark’s President and Chief Executive Officer. “This settlement allows us to remove a significant future cash outflow, reduce general and administrative costs and reporting complexities currently required by the TRA, and take full advantage of the step-up in tax basis associated with future conversions. We would like to thank Mr. Maxwell, once again, for his continued commitment to bringing shareholder value to Spark. We believe this simplifies Spark’s structure as we continue to tell our story to investors and potential strategic partners.”

A special committee of the Board of Directors, consisting solely of independent directors, has approved this transaction. Absent the Release Agreement, Spark anticipated making TRA payments totaling \$68.7 million, undiscounted, over the life of the TRA. The terms of the Release Agreement waive the early termination payment Spark would otherwise be required to make for an early termination of the TRA, which would have been approximately \$49.3 million using June 24, 2019 as a hypothetical early settlement date.

Under the Release Agreement, Spark will retain the existing tax asset created by previous conversions of Class B shares (together with an equal number of Spark Holdco units) by Mr. Maxwell. In the event of any future conversions by Mr. Maxwell, Spark will retain 100% of the associated tax benefit. Investors are encouraged to read the full text of the Release Agreement, which will be filed on a Current Report on Form 8-K.

About Spark Energy, Inc.

Spark Energy, 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. Headquartered in Houston, Texas, Spark currently operates in 19 states and serves 94 utility territories. Spark 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 Spark Energy Investor Relations website at ir.sparkenergy.com. Investors are urged to monitor our website regularly for information and updates about the Company.

Cautionary Note Regarding Forward Looking Statements

This release contains forward-looking statements that are subject to a number of risks and uncertainties, many of which are beyond our control. These forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) can be identified by the use of forward-looking terminology including “may,” “should,” “likely,” “will,” “believe,” “expect,” “anticipate,” “estimate,” “continue,” “plan,” “intend,” “project,” or other similar words. Forward-looking statements appear in this press release and include statements about the TRA and the Release Agreement. The forward-looking statements in this press release are subject to risks and uncertainties. Important factors that could cause actual results to materially differ from those projected in the forward-looking statements include, but are not limited to the “Risk Factors” in our latest Annual Report on Form 10-K for the year ended December 31, 2018, in our Quarterly Reports on Form 10-Q, and other public filings and press releases.

You should review the risk factors and other factors noted throughout this press release. All forward-looking statements speak only as of the date of this press release. Unless required by law, we disclaim any obligation to publicly update or revise these statements whether as a result of new information, future events or otherwise. It is not possible for us to predict all risks, nor can we assess the impact of all factors on the business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

Contact: Spark Energy, Inc.

Investors:

Christian Hettick, 832-200-3727

Media:

Kira Jordan, 832-255-7302