

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): March 12, 2020

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 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of Interim Chief Executive Officer

Effective March 12, 2020, the Board of Directors (the “Board”) of Spark Energy, Inc. (the “Company”) appointed W. Keith Maxwell III as interim Chief Executive Officer. Mr. Maxwell replaces Nathan Kroeker, the Company’s current President and Chief Executive Officer, who no longer serves in that capacity effective March 12, 2020.

Mr. Maxwell, age 55, has served as a director and non-executive Chairman of the Board of the Company since August 2014. Mr. Maxwell serves as the Chief Executive Officer and sole member of several retail electricity and natural gas businesses and holding companies that are affiliated with the Company. Mr. Maxwell served on the Board of Directors of Azure Midstream Partners GP, LLC, the general partner of a midstream energy company, from February 2015 until February 2016. Prior to that time, he served as Chairman of the Board of Marlin Midstream GP, LLC (formerly Marlin Midstream Partners, LP). Prior to founding the predecessor of Spark Energy in 1999, Mr. Maxwell was a founding partner in Wickford Energy, an oil and natural gas services company, in 1994. Wickford Energy was sold to Black Hills Utilities in 1997. Prior to Wickford Energy, Mr. Maxwell was a partner in Polaris Pipeline, a natural gas producer, services and midstream company sold to TECO Pipeline in 1994. In 2010, Mr. Maxwell was named Ernst & Young Entrepreneur of the Year in the Energy, Chemicals and Mining category. A native of Houston, Texas, Mr. Maxwell earned a Bachelor’s Degree in Economics from the University of Texas at Austin in 1987. Mr. Maxwell has several philanthropic interests, including the Special Olympics, Child Advocates, Salvation Army, Star of Hope and Helping a Hero.

For a description of certain relationships and related party transactions between Mr. Maxwell, his affiliates and the Company, please see “Certain Relationships and Related Party Transactions” below. There are no understandings or arrangements between Mr. Maxwell and any other person pursuant to which he was selected to serve as interim Chief Executive Officer. There are no familial relationships that would require disclosure under Item 401(d) of Regulation S-K.

The Company and Mr. Maxwell entered into an employment agreement, effective March 13, 2020 (the “Employment Agreement”). The Employment Agreement provides that Mr. Maxwell will serve as interim Chief Executive Officer for the Company and all of its wholly-owned subsidiaries, beginning March 13, 2020 until the appointment of a new person or persons for the roles of President and/or Chief Executive Officer. During his services as interim Chief Executive Officer, Mr. Maxwell will earn an annual base salary of \$1.00. Mr. Maxwell will be eligible to participate in the Company’s annual bonus plans as established from time to time, and will receive the same benefits as other employees of the Company. The foregoing description of the Employment Agreement is qualified in its entirety by reference to the full text of the Employment Agreement, which is filed herewith as Exhibit 10.1 and incorporated herein by reference.

Appointment of Chief Operating Officer

Also effective March 12, 2020, the Board of the Company appointed Kevin McMinn as Chief Operating Officer. Mr. McMinn, age 56, previously served as Chief Sales Officer of Crius Energy, a retail natural gas and electricity company, from June 2018 to July 2019, and Chief Operating Officer of U.S. Gas & Electric, a retail natural gas and electricity company, from September 2014 to July 2017. Earlier in his career, Kevin advised leading energy companies based in North America and Europe as an industry consultant. Kevin McMinn brings nearly two decades of hands-on retail energy industry expertise to his role

There are no understandings or arrangements between Mr. McMinn and any other person pursuant to which Mr. McMinn was selected to serve as Chief Operating Officer. There are no existing relationships between Mr. McMinn and any person that would require disclosure pursuant to Item 404(a) of Regulation S-K or any familial relationships that would require disclosure under Item 401(d) of Regulation S-K.

In connection with his appointment, the Company entered into an indemnification agreement with Mr. McMinn, dated March 17, 2020 (the “Indemnification Agreement”), which requires the Company to indemnify Mr. McMinn to the fullest extent permitted under Delaware law against liabilities that may arise by reason of his service to the Company, and to advance expenses incurred as a result of any proceeding against him as to which he could be indemnified. The foregoing description of the Indemnification Agreement is qualified in its entirety by reference to the full text of the Indemnification Agreement, which is filed herewith as Exhibit 10.2 and incorporated herein by reference.

Certain Relationships and Related Party Transactions

Mr. Maxwell is the owner of a majority in voting power of the Company’s Class A common stock, par value \$0.01 per share (the “Class A common stock”) and Class B common stock, par value \$0.01 per share (the “Class B common stock” and, together with the Class A common stock, the “Common Stock”). As of March 18, 2020, Mr. Maxwell owns: (i) 2,606,000 shares of Class A common stock, (ii) 20,525,000 shares of Class B common stock held directly by Retailco, LLC, a Texas limited liability company (“Retailco”), and (iii) 275,000 shares of Class B common stock held directly by NuDevco Retail, LLC, a Texas limited liability company (“NuDevco Retail”), representing in the aggregate approximately 66.5% of the voting power of the Company’s issued and outstanding Common Stock.

Mr. Maxwell is the sole member of TxEx Energy Investments, LLC, a Texas limited liability company (“TxEx”), which is the sole member of Retailco and Electric Holdco, LLC, a Texas limited liability company (“Electric Holdco”). Electric Holdco is the sole member of NuDevco Retail Holdings, LLC, a Texas limited liability company (“NuDevco Retail Holdings”), which is the sole member of NuDevco Retail. In addition, Mr. Maxwell is also the indirect or direct owner of RetailCo Services, LLC (“Retailco Services”), Associated Energy Services, LP (“AES”), Retail Acquisition Co. LLC (“Acquisition Co”) and National Gas & Electric, LLC (“NG&E”), which are described in the following sections addressing related party transactions since January 1, 2019.

Spark HoldCo, LLC Limited Liability Company Agreement

At the closing of the Company’s initial public offering, it entered into the Second Amended and Restated Limited Liability Company Agreement of Spark HoldCo by and among the Company, Spark HoldCo, LLC, a Delaware limited liability company the subsidiary through which the Company operates (“Spark HoldCo”), NuDevco Retail and NuDevco Retail Holdings. In connection with the issuance of Series A Preferred Stock, par value \$0.01 per share (the “Series A Preferred Stock”) in March 2017, the Company, Spark HoldCo, NuDevco Retail and Retailco (as successor to NuDevco Retail Holdings) entered into the Third Amended and Restated Spark HoldCo, LLC Limited Liability Company Agreement to amend the prior agreement to provide for, among other things, the designation and issuance of Spark HoldCo Series A preferred units, as another equity security of Spark HoldCo to be issued concurrently with the issuance of Series A Preferred Stock by the Company, including specific terms relating to distributions by Spark HoldCo in connection with the payment by the Company of dividends on the Series A Preferred Stock, the priority of liquidating distributions by Spark HoldCo, the allocation of income and loss to the Company in connection with distributions by Spark HoldCo on Series A preferred units, and other terms relating to the redemption and conversion by the Company of the Series A Preferred Stock. Amendment No. 1 to the Third Amended and Restated Spark HoldCo, LLC Limited Liability Company Agreement (as amended, the “Spark HoldCo LLC Agreement”) was entered into by the Company, Spark HoldCo, NuDevco Retail and Retailco in connection with the issuance of additional Series A Preferred Stock in February 2018.

In accordance with the terms of the Spark HoldCo LLC Agreement, NuDevco Retail and Retailco generally have the right to exchange their Spark HoldCo common units (and a corresponding number of shares of Class B common stock) for shares of Class A common stock at an exchange ratio of one share of Class A common stock for each Spark HoldCo common unit (and corresponding share of Class B common stock) exchanged, subject to conversion rate adjustments for stock splits, stock dividends and reclassifications (an "Exchange Right"). At the Company or Spark HoldCo's option, Spark HoldCo may give NuDevco Retail and Retailco cash in an amount equal to the Cash Election Amount of the shares of Class A common stock instead. The Company is obligated to facilitate an exchange for shares of Class A common stock through a contribution of shares of Class A common stock to Spark HoldCo or, alternatively, the Company has the right to acquire the subject Spark HoldCo common units and corresponding shares of Class B common stock from NuDevco Retail or Retailco by paying, at the Company's option, either (x) the number of shares of Class A common stock NuDevco Retail or Retailco would have received in the proposed exchange or (y) cash in an amount equal to the Cash Election Amount of such shares of Class A common stock. "Cash Election Amount" means, with respect to the shares of Class A common stock to be delivered to NuDevco Retail or Retailco by Spark HoldCo pursuant to the Spark HoldCo LLC Agreement, (i) if Class A common stock is then admitted to trading on a national securities exchange, the amount that would be received if the number of shares of Class A common stock to which NuDevco Retail or Retailco would otherwise be entitled were sold at a per share price equal to the trailing 30-day volume weighted average price of a share of Class A common stock on such exchange, or (ii) in the event shares of Class A common stock are not then admitted to trading on a national securities exchange, the value that would be obtained in an arm's length transaction for cash between an informed and willing buyer and an informed and willing seller, neither of whom is under any compulsion to purchase or sell, respectively, and without regard to the particular circumstances of the buyer and the seller, as determined by the Company. As NuDevco Retail and Retailco exchange their Spark HoldCo common units, the Company's membership interest in Spark HoldCo will be correspondingly increased, and the number of shares of Class B common stock held by NuDevco Retail or Retailco will be correspondingly reduced.

Under the Spark HoldCo LLC agreement, the Company has the right to determine when distributions will be made to the holders of Spark HoldCo common units and the amount of any such distributions. If the Company authorizes a distribution, such distribution will be made to the holders of Spark HoldCo common units on a pro rata basis in accordance with their respective percentage ownership of Spark HoldCo common units. The Spark HoldCo LLC Agreement provides, to the extent Spark HoldCo has available cash and is not prevented by restrictions in any of its credit agreements, for distributions pro rata to the holders of Spark HoldCo common units such that the Company receives an amount of cash sufficient to fund the targeted quarterly dividend the Company intends to pay to holders of Class A common stock, and distributions to the Company in an amount equal to the dividends to be paid by it on the Series A Preferred Stock.

The holders of Spark HoldCo units, including the Company, will generally incur U.S. federal, state and local income taxes on any taxable income of Spark HoldCo allocated to them. Generally, items of gross income and gain are first allocated to the Company until the cumulative amount of such items for current and prior fiscal years (or other relevant periods) equals the cumulative amount of distributions the Company receives to pay any special estimated tax liability. Second, items of income and gain are generally allocated to the Company until the cumulative amount of such items for current and prior fiscal years (or other relevant periods) equals the cash distributions the Company has received from Spark HoldCo to pay dividends on the Series A Preferred Stock and the amount of accrued and unpaid dividends on the Series A Preferred Stock. Third, items of gross income and gain are allocated to the Company until the cumulative amount of such items allocated to the Company for current and prior fiscal years (or other relevant periods) equals the cumulative amount of distributions received by the Company for a non-pro rata distribution to the Company from Spark HoldCo. Thereafter, net profits and net losses of Spark HoldCo generally will be allocated to members of Spark HoldCo to target capital account balances according to the amount a member would receive upon a deemed liquidation. Certain non-pro rata adjustments will be required to be made to reflect built-in gains and losses and tax depletion, depreciation and amortization with respect to such built-in gains and losses in allocating items of net profits and losses. The Spark HoldCo LLC Agreement provides, to the extent cash is available, for distributions pro rata to the holders of Spark

HoldCo units such that the Company receives an amount of cash sufficient to cover the estimated taxes payable by it, and to it to cover any special estimated tax liability.

In addition, if the cumulative amount of U.S., federal, state or local taxes payable by the Company exceeds the amount of the tax distribution to the Company, Spark HoldCo will make advances to the Company in an amount necessary to enable the Company to fully pay these tax liabilities. Such advances will be repayable, without interest, solely from (i.e., by offset against) future distributions by Spark HoldCo to the Company.

The Spark HoldCo LLC Agreement provides that if the Company issues a new share of Class A common stock, Series A Preferred Stock, or other equity security (other than shares of Class B common stock, and excluding issuances of Class A common stock upon an exchange of Class B common stock or Series A Preferred Stock), Spark HoldCo will concurrently issue a corresponding limited liability company unit either to the holder of the Class B common stock, or to the Company in the case of the issuance of shares of Class A common stock, Series A Preferred Stock or such other equity security. As a result, the number of Spark HoldCo units held by the Company always equals the number of shares of Class A common stock, Series A Preferred Stock or such other equity securities the Company has outstanding.

Spark HoldCo will be dissolved only upon the first to occur of (i) the sale of substantially all of its assets or (ii) an election by the Company to dissolve the company. Upon dissolution, Spark HoldCo will be liquidated and the proceeds from any liquidation will be applied and distributed in the following manner: (a) first, to creditors (including to the extent permitted by law, creditors who are members) in satisfaction of the liabilities of Spark HoldCo, (b) second, to establish cash reserves for contingent or unforeseen liabilities, (c) third, to the Company in respect of Spark HoldCo Series A preferred units in an amount equal to the total amount that would be required to be distributed by the Company in respect of Series A Preferred Stock, and (d) the balance thereafter to its members holding Spark HoldCo common units in proportion to the number of Spark HoldCo units owned by each of them.

The Spark HoldCo LLC Agreement also provides that Spark HoldCo will pay certain of the Company's expenses attributable to the Company's status as a public company. Such expenses include, but are not limited to, accounting and legal fees, independent director compensation, director and officer liability insurance expense, Sarbanes-Oxley compliance, transfer agent and registrar fees, tax return preparation, investor relations expense, SEC and NASDAQ compliance fees and the fees and expenses of other service providers that provide services to the Company in connection with its obligations as a publicly-traded company.

The foregoing description of the Spark HoldCo LLC Agreement is qualified in its entirety by reference to the full text of the Spark HoldCo LLC Agreement and the amendments thereto, which are filed herewith as Exhibit 10.3 and 10.4 and incorporated herein by reference.

Tax Receivable Agreement

The Company entered into a Tax Receivable Agreement (the "TRA") with Spark HoldCo, NuDevco Retail, NuDevco Retail Holdings and W. Keith Maxwell III on August 1, 2014. Retailco became a party to the TRA in connection with the transfer by NuDevco Retail Holdings of its 21,225,000 shares of Class B common stock and a corresponding number of Spark HoldCo units to Retailco in December 2015.

Effective July 11, 2019, the Company entered into a TRA Termination and Release Agreement (the "Release Agreement"), which provided for a full and complete termination of any further payment, reimbursement or performance obligation of the Company, Retailco and NuDevco Retail under the TRA, whether past, accrued or yet to arise. Pursuant to the Release Agreement, the Company made a cash payment of approximately \$11.2 million on July 15, 2019 to Retailco and NuDevco Retail. In connection with the termination of the TRA, Spark HoldCo made a distribution of

approximately \$16.3 million on July 15, 2019 to Retailco and NuDevco Retail under the Spark HoldCo Third Amended and Restated Limited Liability Company Agreement, as amended.

The TRA generally provided for the payment by the Company to NuDevco Retail and Retailco, 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 are 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 NuDevco Retail Holdings prior to or in connection with its 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 was required to make 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.

The foregoing description of the TRA and Release Agreement are qualified in their entirety by reference to the full text of the TRA and Release Agreement, which are filed herewith as Exhibit 10.5 and 10.6 and incorporated herein by reference.

Registration Rights Agreement

On August 1, 2014, the Company entered into a registration rights agreement with NuDevco Retail and NuDevco Retail Holdings (a predecessor-in-interest to Retailco) to register for sale under the Securities Act shares of Class A common stock delivered in exchange for Spark HoldCo common units (together with an equal number of shares of Class B common stock) in the circumstances described below. Retailco became a party to this agreement in connection with the transfer by NuDevco Retail Holdings of its 21,225,000 shares of Class B common stock and a corresponding number of Spark HoldCo common units to Retailco in December 2015. This agreement provides NuDevco Retail and Retailco, as holders of registrable securities under the agreement, with the right to require the Company, at its expense, to register shares of the Company's Class A common stock held by them from time to time that are issuable upon exchange of Spark HoldCo units (together with an equal number of shares of Class B common stock) for shares of Class A common stock.

Demand Rights. Subject to certain limitations, NuDevco Retail and Retailco have the right, by delivering written notice to the Company, to require the Company to register the number of shares of Class A common stock requested to be so registered in accordance with the registration rights agreement. Within 30 days of receipt of notice of a demand registration, the Company is required to give written notice to all other holders of registrable shares of Class A common stock. Subject to certain limitations as described below, the Company will use its commercially reasonable efforts to effect, as soon as commercially reasonable, the registration of all securities with respect to which the Company receives a written request.

Piggyback Rights. Subject to certain limitations, NuDevco Retail and Retailco are entitled to request to participate in, or "piggyback" on, registrations of any of Class A common stock for sale by the Company in an underwritten offering.

Conditions and Limitations. The registration rights outlined above are subject to conditions and limitations, including the right of the underwriters, as applicable, to limit the number of shares to be included in a registration statement and the Company's right to delay, suspend or withdraw a registration statement under specified circumstances. For example, the Board may defer any filing for up to six months if the Board determines that such disclosure would have a material adverse effect on the Company.

If requested by the Company or an underwriter, NuDevco Retail and Retailco will not be able to make any sale of equity securities, except securities included in such registration, during a period commencing on the date beginning fourteen (14) days prior to the expected date of “pricing” of such offering and continuing for a period not to exceed 90 days beginning on the date of such final prospectus (or prospectus supplement if the offering is made pursuant to a shelf registration statement), or such shorter period as may be requested by an underwriter.

Expenses and Indemnification. In connection with any registration effected pursuant to the terms of the registration rights agreement, the Company is required to pay for all of the fees and expenses incurred in connection with such registration, including, without limitation, registration fees, qualification and filing fees and printing expenses. However, the underwriting discounts and selling commissions payable in respect of registrable securities included in any registration are to be paid by the persons including such registrable securities in any such registration on a pro rata basis. The Company has also agreed to indemnify the holders of registrable securities and each of their respective officers, directors, partners and agents, the underwriters, and each person who controls such holders or underwriters, against all losses, claims, damages and liabilities (joint or several) with respect to each registration effected pursuant to the registration rights agreement.

On September 20, 2019, the Company filed a registration statement under the Securities Act on Form S-3 registering, among other things, the offer and sale, from time to time, of the Class A common stock held by Retailco and NuDevco (including Class A common stock that may be obtained upon conversion of Class B common stock). The registration statement was declared effective on October 18, 2019.

The foregoing description of the registration rights agreement is qualified in its entirety by reference to the full text of the registration rights agreement, which is filed herewith as Exhibit 10.7 and incorporated herein by reference.

Indemnification Agreements

The Company has entered into an indemnification agreement with Mr. Maxwell, which requires the Company to indemnify Mr. Maxwell to the fullest extent permitted under Delaware law against liabilities that may arise by reason of his service to the Company, and to advance expenses incurred as a result of any proceeding against him as to which he could be indemnified. The foregoing description of the indemnification agreement is qualified in its entirety by reference to the full text of the indemnification agreement, which is filed herewith as Exhibit 10.8 and incorporated herein by reference.

Acquisition of Customers from NG&E

On March 7, 2018, Spark HoldCo entered into an asset purchase agreement (the “Customer Purchase Agreement”) with NG&E, pursuant to which Spark HoldCo agreed to acquire up to 50,000 residential customer equivalents (“RCEs”) for a cash purchase price of \$250 for each RCE, or up to \$12.5 million in the aggregate. These customers began transferring after April 1, 2018. For the year ended December 31, 2019, we paid NG&E \$10,000 under the terms of the Customer Purchase Agreement.

Subordinated Debt Facility

On June 13, 2019, the Company entered into an Amended and Restated Subordinated Promissory Note in the principal amount of up to \$25.0 million (the “Subordinated Debt Facility”), with Spark HoldCo and Retailco. The Subordinated Debt Facility amended and restated the Subordinated Promissory Note, dated as of December 27, 2016, by and among the Company, Spark HoldCo and Retailco, solely to extend the expiration date from July 1, 2020 to December 31, 2021.

The Subordinated Debt Facility allows the Company to draw advances in increments of no less than \$1.0 million per advance up to the maximum principal amount of the Subordinated Debt Facility. Advances thereunder accrue interest at 5% per annum from the date of the advance. The Company has the right to capitalize interest payments under the Subordinated Debt Facility. The Subordinated Debt Facility is subordinated in certain respects to the Company's Senior Credit Facility pursuant to a subordination agreement. The Company may pay interest and prepay principal on the Subordinated Debt Facility so long as the Company is in compliance with the covenants under its Senior Credit Facility, is not in default under the Senior Credit Facility and has minimum availability of \$5.0 million under the borrowing base under the Senior Credit Facility. Payment of principal and interest under the Subordinated Debt Facility is accelerated upon the occurrence of certain change of control or sale transactions.

During the year ended December 31, 2019, the largest aggregate principal amount under the Subordinated Debt Facility was \$16.3 million. As of December 31, 2019, the Company did not have any borrowings under the Subordinated Debt Facility. During the year ended December 31, 2019, the Company paid interest of \$0.2 million under the Subordinated Debt Facility.

The foregoing description of the Subordinated Debt Facility is qualified in its entirety by reference to the full text of the Subordinated Debt Facility, which is filed herewith as Exhibit 10.9 and incorporated herein by reference.

Proceeds from Disgorgement of Shareholder Short-Swing Profits

During the year ended December 31, 2019, the Company received \$55,022 related to short-swing profits under Section 16(b).

Historical Transactions with Affiliates

The Company enters into transactions with and pays certain costs on behalf of affiliates (specifically, AES, TexEx Energy Operating, LLC, and NG&E) that are commonly controlled in order to reduce risk, reduce administrative expense, create economies of scale, create strategic alliances and supply goods and services to these related parties. The Company also sells and purchases natural gas and electricity with affiliates. Affiliated transactions include certain services to the affiliated companies associated with employee benefits provided through the Company's benefit plans, insurance plans, leased office space, administrative salaries, due diligence work, recurring management consulting, and accounting, tax, legal, or technology services. Amounts billed are based on the services provided, departmental usage, or headcount, which are considered reasonable by management. Where costs incurred on behalf of the affiliate or the Company cannot be determined by specific identification for direct billing, the costs are allocated to the affiliated entities or the Company based on estimates of percentage of departmental usage, wages or headcount. As such, the Company's financial statements include costs that have been incurred by the Company and then directly billed or allocated to affiliates, as well as costs that have been incurred by the Company's affiliates and then directly billed or allocated to the Company. The paragraphs below describe transaction arising from historical relationships that existed between the Company and other affiliates during the year ended December 31, 2019.

Transactions with AES

On August 1, 2013, the Company and AES entered into an agreement whereby the Company purchases natural gas from AES. Cost of revenues-affiliates, recorded in net asset optimization revenues in the combined statements of operations for the year ended December 31, 2019 were \$0.1 million. Revenues-affiliates, recorded in net asset optimization revenues in the combined statements of operations, for the year ended December 31, 2019 were \$2.4 million.

Cost allocations

The total net amount direct billed and allocated (to)/from affiliates was \$(0.7) million, for the year ended December 31, 2019. These amounts include the payments for administrative costs for information technology, power and gas supply, employee benefits and other services with NG&E, TxEx, Retailco and other affiliated entities. These amounts also include the payments discussed in more detail below under the heading “Office Lease and Facilities.”

Office Lease and Facilities

The Company shares its corporate headquarters with certain of its affiliates. NuDevco Midstream Development, LLC, an indirect subsidiary of TxEx, is the lessee under the current lease agreement covering the Company’s corporate headquarters. NuDevco Midstream Development, LLC pays the entire lease payment and facilities charges on behalf of the affiliates of TxEx, and the Company reimburses NuDevco Midstream Development, LLC for the Company’s share. During the year ended December 31, 2019, the Company paid affiliates \$1.9 million in lease payments and facilities charges.

Item 7.01. Regulation FD Disclosure.

On March 12, 2020, the Company issued a press release describing the matters in this Current Report on Form 8-K. A copy of the press release is included as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated by reference into this Item 7.01.

The information contained in this Item 7.01 and Exhibit 99.1 and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
10.1*†	Employment Agreement, effective as of March 13, 2020, by and between Spark Energy, Inc. and W. Keith Maxwell III.
10.2*†	Indemnification Agreement, dated as of March 17, 2020, by and between Spark Energy, Inc. and Kevin McMinn. Spark HoldCo. Third Amended and Restated Limited Liability Agreement, dated as of March 15, 2017, by and among Spark Energy, Inc., Retailco, LLC and NuDevco Retail, LLC (incorporated by reference from Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed on May 8, 2017).
10.3	Amendment No. 1, dated as of January 26, 2018, to Third Amended and Restated Limited Liability Company Agreement of Spark Holdco, LLC (incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K filed on January 26, 2018).
10.4	Tax Receivable Agreement, dated as of August 1, 2014, by and among Spark Energy, Inc., Spark HoldCo LLC, NuDevco Retail Holdings, LLC, NuDevco Retail, LLC and W. Keith Maxwell III (incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K filed on August 4, 2014).
10.5	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 (incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 17, 2019).
10.6	Registration Rights Agreement, dated as of August 1, 2014, by and among Spark Energy, Inc., NuDevco Retail Holdings, LLC and NuDevco Retail LLC (incorporated by reference from Exhibit 10.4 to the Company's Current Report on Form 8-K filed on August 4, 2014).
10.7	Indemnification Agreement, dated August 1, 2014, by and between Spark Energy, Inc. and W. Keith Maxwell III (incorporated by reference from Exhibit 10.5 to the Company's Current Report on Form 8-K filed on August 4, 2014).
10.8	Amended and Restated Subordinated Promissory Note of Spark HoldCo, LLC and Spark Energy, Inc., dated June 13, 2019 (incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K filed on June 18, 2019).
10.9	
99.1**	Press Release of Spark Energy, Inc. dated March 12, 2020.

* Filed herewith.

** Furnished herewith.

† Management plan or arrangement.

Exhibit Index

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10.3	<u>Spark HoldCo, Third Amended and Restated Limited Liability Agreement, dated as of March 15, 2017, by and among Spark Energy, Inc., Retailco, LLC and NuDevco Retail, LLC (incorporated by reference from Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed on May 8, 2017).</u>
10.4	<u>Amendment No. 1, dated as of January 26, 2018, to Third Amended and Restated Limited Liability Company Agreement of Spark Holdco, LLC (incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K filed on January 26, 2018).</u>
10.5	<u>Tax Receivable Agreement, dated as of August 1, 2014, by and among Spark Energy, Inc., Spark HoldCo LLC, NuDevco Retail Holdings, LLC, NuDevco Retail, LLC and W. Keith Maxwell III (incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K filed on August 4, 2014).</u>
10.6	<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 (incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 17, 2019).</u>
10.7	<u>Registration Rights Agreement, dated as of August 1, 2014, by and among Spark Energy, Inc., NuDevco Retail Holdings, LLC and NuDevco Retail LLC (incorporated by reference from Exhibit 10.4 to the Company's Current Report on Form 8-K filed on August 4, 2014).</u>
10.8	<u>Indemnification Agreement, dated August 1, 2014, by and between Spark Energy, Inc. and W. Keith Maxwell III (incorporated by reference from Exhibit 10.5 to the Company's Current Report on Form 8-K filed on August 4, 2014).</u>
10.9	<u>Amended and Restated Subordinated Promissory Note of Spark HoldCo, LLC and Spark Energy, Inc., dated June 13, 2019 (incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K filed on June 18, 2019).</u>
99.1**	<u>Press Release of Spark Energy, Inc. dated March 12, 2020.</u>

* Filed herewith.

** Furnished herewith.

† Management plan or arrangement.

Employment Agreement with Spark Energy, Inc.

This Employment Agreement (this "Agreement") dated effective March 13, 2020, is entered into between William Keith Maxwell III ("Employee") and Spark Energy, Inc. (the "Company").

Title: Interim President and Interim Chief Executive Officer of the Company and of all of its wholly-owned subsidiaries.

Duties: Those normally incidental to the titles identified above as well as such additional duties as may be assigned to Employee by the Board from time to time.

Term: The term of this Agreement shall be for the period beginning on the date of the Agreement and shall continue in force and effect until the appointment of a new person or persons in the roles of President and/or Chief Executive Officer and acceptance of such appointment and commencement of the term of employment of said new officer(s) or upon the earlier date of termination of Employee's employment for any reason (the "Term").

Base Salary: Annual base salary of \$1.00 (less applicable taxes and withholdings) (the "Base Salary") payable in conformity with the Company's customary payroll practices for similarly situated employees as may exist from time to time, but no less frequently than monthly.

Bonus: Employee shall be eligible to participate in such annual bonus plan as may be established by the Company in its discretion from time to time and in which other similarly situated Company employees are eligible to participate, subject to the terms and conditions of the applicable plan in effect from time to time. The Company shall not, however, be obligated to institute, maintain, or refrain from changing, amending, or discontinuing, any bonus plan, so long as such changes are similarly applicable to similarly situated Company employees generally. Any bonus shall not be payable unless Employee remains continuously employed within the Company to the date on which such bonus is paid.

Benefits: Employee shall be eligible to participate in the same benefit plans and programs in which other similarly situated Company employees are eligible to participate, subject to the terms and conditions of the applicable plans and programs in effect from time to time. The Company shall not be obligated to institute, maintain, or refrain from changing, amending, or discontinuing, any such plan or policy, so long as such changes are similarly applicable to similarly situated Company employees.

Indemnity and D&O Insurance: The Company will indemnify and hold Employee harmless for all acts and omissions occurring during his employment to the maximum extent provided under the Company's certificate of incorporation, by-laws and applicable law (as each may be amended from time to time). During the Term, the Company will purchase and maintain, at its own expense, directors' and officers' liability insurance providing coverage for Employee in the same amount as for similarly situated executives of the Company.

EMPLOYER: SPARK ENERGY, INC. EMPLOYEE: WILLIAM KEITH MAXWELL III

By: /s/ Amanda Bush By: /s/ W. Keith Maxwell III

Name: Amanda Bush Name: William Keith Maxwell III

Title: Title: Executive Chairman, Interim President

Officer

& Interim Chief Executive

INDEMNIFICATION AGREEMENT

This Indemnification Agreement ("Agreement") is made as of March 17, 2020, by and between Spark Energy, Inc., a Delaware corporation (the "Corporation"), and Kevin McMinn ("Indemnatee").

RECITALS:

WHEREAS, directors, officers and other persons in service to corporations or business enterprises are subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Corporation or business enterprise itself;

WHEREAS, highly competent persons have become more reluctant to serve as directors, officers or in other capacities unless they are provided with adequate protection through insurance and adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Corporation (the "Board") has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Corporation and its stockholders and that the Corporation should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, (i) the Amended and Restated Bylaws of the Corporation (as may be amended, the "Bylaws") require indemnification of the officers and directors of the Corporation, (ii) Indemnatee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware ("DGCL") and (iii) the Bylaws and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive and thereby contemplate that contracts may be entered into between the Corporation and members of the Board, officers and other persons with respect to indemnification;

WHEREAS, this Agreement is a supplement to and in furtherance of the Bylaws and the Amended and Restated Certificate of Incorporation of the Corporation (as may be amended, the "Certificate of Incorporation") and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefore, nor to diminish or abrogate any rights of Indemnatee thereunder; and

WHEREAS, (i) Indemnatee does not regard the protection available under the Bylaws and insurance as adequate in the present circumstances, (ii) Indemnatee may not be willing to serve or continue to serve as a director or officer of the Corporation without adequate protection, (iii) the Corporation desires Indemnatee to serve in such capacity, and (iv) Indemnatee is willing to serve, continue to serve and to take on additional service for or on behalf of the Corporation on the condition that he be so indemnified.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Corporation and Indemnitee do hereby covenant and agree as follows:

Section 1. Definitions. (a) As used in this Agreement:

“Affiliate” of any specified Person shall mean any other Person controlling, controlled by or under common control with such specified Person.

“Corporate Status” describes the status of a person who is or was a director, officer, employee or agent of (i) the Corporation or (ii) any other corporation, limited liability company, partnership or joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Corporation.

“Disinterested Director” shall mean a director of the Corporation who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

“Enterprise” shall mean the Corporation and any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the request of the Corporation as a director, officer, employee, agent or fiduciary.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Expenses” shall mean all reasonable costs, expenses, fees and charges, including, without limitation, attorneys’ fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, or otherwise participating in, a Proceeding. Expenses also shall include, without limitation, (i) expenses incurred in connection with any appeal resulting from, incurred by Indemnitee in connection with, arising out of, or in respect of or relating to, any Proceeding, including, without limitation, the premium, security for, and other costs relating to any cost bond, supersedes bond, or other appeal bond or its equivalent, (ii) for purposes of Section 12(d) hereof only, expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee’s rights under this Agreement, by litigation or otherwise, (iii) any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, and (iv) any interest, assessments or other charges in respect of the foregoing. “Expenses” shall not include “Liabilities.”

“Indemnity Obligations” shall mean all obligations of the Corporation to Indemnitee under this Agreement, including the Corporation’s obligations to provide indemnification to Indemnitee and advance Expenses to Indemnitee under this Agreement.

“Independent Counsel” shall mean a law firm of fifty (50) or more attorneys, or a member of a law firm of fifty (50) or more attorneys, that is experienced in matters of corporation law and neither presently is, nor in the past five (5) years has been, retained to represent: (i) the Corporation or Indemnatee in any matter material to either such party (other than with respect to matters concerning Indemnatee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder; provided, however, that the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Corporation or Indemnatee in an action to determine Indemnatee’s rights under this Agreement.

“Liabilities” shall mean all claims, liabilities, damages, losses, judgments, orders, fines, penalties and other amounts payable in connection with, arising out of, or in respect of or relating to any Proceeding, including, without limitation, amounts paid in settlement in any Proceeding and all costs and expenses in complying with any judgment, order or decree issued or entered in connection with any Proceeding or any settlement agreement, stipulation or consent decree entered into or issued in settlement of any Proceeding.

“Person” shall mean any individual, corporation, partnership, limited partnership, limited liability company, trust, governmental agency or body or any other legal entity.

“Proceeding” shall mean any threatened, pending or completed action, claim, suit, arbitration, alternate dispute resolution mechanism, formal or informal hearing, inquiry or investigation, litigation, inquiry, administrative hearing or any other actual, threatened or completed judicial, administrative or arbitration proceeding (including, without limitation, any such proceeding under the Securities Act of 1933, as amended, or the Exchange Act or any other federal law, state law, statute or regulation), whether brought in the right of the Corporation or otherwise, and whether of a civil, criminal, administrative or investigative nature, in each case, in which Indemnatee was, is or will be, or is threatened to be, involved as a party, witness or otherwise by reason of the fact that Indemnatee is or was a director or officer of the Corporation, by reason of any actual or alleged action taken by Indemnatee or of any action on Indemnatee’s part while acting as director or officer of the Corporation, or by reason of the fact that he is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, in each case whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification, reimbursement, or advancement can be provided under this Agreement.

(b) For the purpose hereof, references to “fines” shall include any excise tax assessed with respect to any employee benefit plan; references to “serving at the request of the Corporation” shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner he reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Corporation” as referred to in this Agreement.

Section 2. Indemnity in Third-Party Proceedings. The Corporation shall indemnify and hold harmless Indemnitee, to the fullest extent permitted by applicable law, from and against all Liabilities and Expenses suffered or reasonably incurred (and, in the case of retainers, reasonably expected to be incurred) by Indemnitee or on Indemnitee's behalf in connection with any Proceeding (other than any Proceeding brought by or in the right of the Corporation to procure a judgment in its favor), or any claim, issue or matter therein.

Section 3. Indemnity in Proceedings by or in the Right of the Corporation. The Corporation shall indemnify and hold harmless Indemnitee, to the fullest extent permitted by applicable law, from and against all Liabilities and Expenses suffered or incurred by Indemnitee or on Indemnitee's behalf in connection with any Proceeding brought by or in the right of the Corporation to procure a judgment in its favor, or any claim, issue or matter therein. No indemnification for Liabilities and Expenses shall be made under this Section 3 in respect of any claim, issue or matter as to which Indemnitee shall have been finally adjudged by a court to be liable to the Corporation, unless and only to the extent that the Delaware Court of Chancery or any court in which the Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to such indemnification.

Section 4. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, and without limiting the rights of Indemnitee under any other provision hereof, including any rights to indemnification pursuant to Sections 2 or 3 hereof, to the fullest extent permitted by applicable law, to the extent that Indemnitee is successful, on the merits or otherwise, in any Proceeding or in defense of any claim, issue or matter therein, in whole or in part, the Corporation shall indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with each successfully resolved Proceeding, claim, issue or matter. For purposes of this Section 4 and without limitation, the termination of any Proceeding or claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 5. Indemnification For Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the fullest extent permitted by applicable law and to the extent that Indemnitee is, by reason of Indemnitee's Corporate Status, a witness or otherwise a participant in any Proceeding to which Indemnitee is not a party, Indemnitee shall be indemnified against all Expenses suffered or incurred (or, in the case of retainers, reasonably expected to be incurred) by Indemnitee or on Indemnitee's behalf in connection therewith.

Section 6. Additional Indemnification. Notwithstanding any limitation in Sections 2, 3 or 4 hereof, the Corporation shall indemnify Indemnitee to the fullest extent permitted by applicable law if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Corporation to procure a judgment in its favor) against all Liabilities and Expenses suffered or reasonably incurred by Indemnitee in connection with such Proceeding, including but not limited to:

- (a) the fullest extent permitted by the provision of the DGCL that authorizes or contemplates additional indemnification by agreement, or the corresponding provision of any amendment to or replacement of the DGCL; and
- (b) the fullest extent authorized or permitted by any amendments to or replacements of the DGCL adopted after the date of this Agreement that increase the extent to which a corporation may indemnify its officers and directors.

Section 7. Exclusions. Notwithstanding any provision in this Agreement, the Corporation shall not be obligated under this Agreement to indemnify or hold harmless Indemnitee:

- (a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy obtained by the Corporation except with respect to any excess beyond the amount paid under such insurance policy;
- (b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Corporation within the meaning of Section 16(b) of the Exchange Act or similar provisions of state statutory law or common law;
- (c) except as provided in Section 12(d) of this Agreement, in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Corporation or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Corporation provides the indemnification, in its sole discretion, pursuant to the powers vested in the Corporation under applicable law; or
- (d) if a final decision by a court having jurisdiction in the matter shall determine that such indemnification is not lawful.

Section 8. Advancement. In accordance with the pre-existing requirements of the Bylaws, and notwithstanding any provision of this Agreement to the contrary, the Corporation shall advance, to the extent not prohibited by applicable law, the Expenses reasonably incurred by Indemnitee in connection with any Proceeding, and such advancement shall be made within thirty (30) days after the receipt by the Corporation of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding. Advances shall be unsecured and interest free. Advances shall be made without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement. Advances shall include any and all Expenses reasonably incurred pursuing an action to enforce this right of advancement, including Expenses incurred preparing and forwarding statements to the Corporation to support the advances claimed. Indemnitee shall qualify for advances upon the execution and delivery to the Corporation of this Agreement, which shall constitute an undertaking providing that Indemnitee undertakes to repay the amounts advanced to the extent that it is ultimately determined that Indemnitee is not entitled to be indemnified by the Corporation. This Section 8 shall not apply to any claim made by Indemnitee for which indemnity is excluded pursuant to Section 7 hereof.

Section 9. Procedure for Notification and Defense of Claim.

(a) Indemnitee shall promptly notify the Corporation in writing of any Proceeding with respect to which Indemnitee intends to seek indemnification or advancement hereunder following the receipt by Indemnitee of written notice thereof. The written notification to the Corporation shall include a description of the nature of the Proceeding and the facts underlying the Proceeding. To obtain indemnification under this Agreement, Indemnitee shall submit to the Corporation a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding. Any delay or failure by Indemnitee to notify the Corporation hereunder will not relieve the Corporation from any liability which it may have to Indemnitee hereunder or otherwise than under this Agreement, and any delay or failure in so notifying the Corporation shall not constitute a waiver by Indemnitee of any rights under this Agreement. The Corporate Secretary of the Corporation shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification.

(b) In the event Indemnitee is entitled to indemnification and/or advancement with respect to any Proceeding, Indemnitee may, at Indemnitee's option, (i) retain counsel selected by Indemnitee and approved by the Corporation to defend Indemnitee in such Proceeding, at the sole expense of the Corporation (which approval shall not be unreasonably withheld, conditioned or delayed), or (ii) have the Corporation assume the defense of Indemnitee in such Proceeding, in which case the Corporation shall assume the defense of such Proceeding with counsel selected by the Corporation and approved by Indemnitee (which approval shall not be unreasonably withheld, conditioned or delayed) within ten (10) days of the Corporation's receipt of written notice of Indemnitee's election to cause the Corporation to do so. If the Corporation is required to assume the defense of any such Proceeding, it shall engage legal counsel for such defense, and the Corporation shall be solely responsible for all fees and expenses of such legal counsel and otherwise of such defense. Such legal counsel may represent both Indemnitee and the Corporation (and any other party or parties entitled to be indemnified by the Corporation with respect to such matter) unless, in the reasonable opinion of legal counsel to Indemnitee, there is a conflict of interest between Indemnitee and the Corporation (or any other such party or parties) or there are legal defenses available to Indemnitee that are not available to the Corporation (or any such other party or parties). Notwithstanding either party's assumption of responsibility for defense of a Proceeding, each party shall have the right to engage separate counsel at its own expense. The party having responsibility for defense of a Proceeding shall provide the other party and its counsel with all copies of pleadings and material correspondence relating to the Proceeding. Indemnitee and the Corporation shall reasonably cooperate in the defense of any Proceeding with respect to which indemnification is sought hereunder, regardless of whether the Corporation or Indemnitee assumes the defense thereof. Indemnitee may not settle or compromise any Proceeding without the prior written consent of the Corporation, which consent shall not be unreasonably withheld, conditioned or delayed. The Corporation may not settle or compromise any Proceeding without the prior written consent of Indemnitee.

Section 10. Procedure Upon Application for Indemnification.

(a) Upon written request by Indemnitee for indemnification pursuant to Section 9(a) hereof, if any determination by the Corporation is required by applicable law with respect to Indemnitee's entitlement thereto, such determination shall be made (i) if Indemnitee shall request such determination be made by Independent Counsel, by Independent Counsel, and (ii) in all other circumstances, (A) by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board, (C) if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (D) if so directed by the Board, by the stockholders of the Corporation; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten (10) days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Corporation (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Corporation hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Corporation will not deny any written request for indemnification hereunder made in good faith by Indemnitee unless a determination as to Indemnitee's entitlement to such indemnification described in this Section 10(a) has been made. The Corporation agrees to pay the reasonable fees and expenses of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Liabilities and Expenses arising out of or relating to this Agreement or its engagement pursuant hereto.

(b) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 10(a) hereof, (i) the Independent Counsel shall be selected by the Corporation within ten (10) days of the Submission Date (the cost of such Independent Counsel to be paid by the Corporation), (ii) the Corporation shall give written notice to Indemnitee advising it of the identity of the Independent Counsel so selected and (iii) Indemnitee may, within ten (10) days after such written notice of selection shall have been given, deliver to the Corporation Indemnitee's written objection to such selection. Such objection by Indemnitee may be asserted only on the ground that the Independent Counsel selected does not meet the requirements of "Independent Counsel" as defined in this Agreement. If such written objection is made and substantiated, the Independent Counsel selected shall not serve as Independent Counsel unless and until Indemnitee withdraws the objection or a court has determined that such objection is without merit. Absent a timely objection, the person so selected shall act as Independent Counsel. If no Independent Counsel shall have been selected and not objected to before the later of (i) thirty (30) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 10(a) hereof (the "Submission Date") and (ii) ten (10) days after the final disposition of the Proceeding, each of the Corporation and Indemnitee shall select a law firm or member of a law firm meeting the qualifications to serve as Independent Counsel, and such law firms or members

of law firms shall select the Independent Counsel. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 12(a) of this Agreement, Independent Counsel shall be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

Section 11. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person, persons or entity making such determination shall, to the fullest extent not prohibited by applicable law, presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 9(a) of this Agreement, and the Corporation shall, to the fullest extent not prohibited by applicable law, have the burden of proof to overcome that presumption in connection with the making by any person, persons or entity of any determination contrary to that presumption. Neither the failure of the Corporation (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Corporation (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) Subject to Section 12(e) hereof, if the person, persons or entity empowered or selected under Section 10 of this Agreement to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Corporation of the request therefore, the requisite determination of entitlement to indemnification shall, to the fullest extent not prohibited by applicable law, be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent a prohibition of such indemnification under applicable law; *provided, however*, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if (i) the determination is to be made by Independent Counsel and Indemnitee objects to the Corporation's selection of Independent Counsel and (ii) the Independent Counsel ultimately selected requires such additional time for the obtaining or evaluating of documentation or information relating thereto; *provided further, however*, that such 60-day period may also be extended for a reasonable time, not to exceed an additional sixty (60) days, if the determination of entitlement to indemnification is to be made by the stockholders of the Corporation.

(c) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) Reliance as Safe Harbor. For purposes of any determination of good faith, Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books

of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with the reasonable care by the Enterprise. The provisions of this Section 11(d) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) Actions of Others. The knowledge or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement.

Section 12. Remedies of Indemnitee.

(a) Subject to Section 12(e) hereof, in the event that (i) a determination is made pursuant to Section 10 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement is not timely made pursuant to Section 8 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 10(a) of this Agreement within ninety (90) days after receipt by the Corporation of the request for indemnification, (iv) payment of indemnification is not made pursuant to Sections 4 or 5 or the last sentence of Section 10(a) of this Agreement within ten (10) days after receipt by the Corporation of a written request therefor, (v) payment of indemnification pursuant to Sections 2, 3 or 6 of this Agreement is not made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) in the event that the Corporation or any other Person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or proceeding designed to deny, or to recover from, Indemnitee the benefits provided or intended to be provided to Indemnitee hereunder, Indemnitee shall be entitled to an adjudication by a court of Indemnitee's entitlement to such indemnification or advancement. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The Corporation shall not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) In the event that a determination shall have been made pursuant to Section 10(a) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 12 shall be conducted in all respects as a de novo trial, or arbitration, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 12 the Corporation shall have the burden of proving Indemnitee is not entitled to indemnification or advancement, as the case may be.

(c) If a determination shall have been made pursuant to Section 10(a) of this Agreement that Indemnitee is entitled to indemnification, the Corporation shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 12, absent a prohibition of such indemnification under applicable law.

(d) The Corporation shall, to the fullest extent not prohibited by applicable law, be precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 12 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the Corporation is bound by all the provisions of this Agreement. It is the intent of the Corporation that Indemnitee not be required to incur Expenses associated with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement by litigation or otherwise because the cost and expense thereof would substantially detract from the benefits intended to be extended to Indemnitee hereunder. The Corporation shall indemnify Indemnitee against any and all such Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Corporation of a written request therefore) advance, to the extent not prohibited by applicable law, such Expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advancement from the Corporation under this Agreement or under any directors' and officers' liability insurance policies maintained by the Corporation, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement or insurance recovery, as the case may be.

(e) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding; *provided* that, in absence of any such determination with respect to such Proceeding, the Corporation shall advance Expenses with respect to such Proceeding.

Section 13. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and to receive advancement as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in Indemnitee's Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware law, whether by statute or judicial decision, permits greater indemnification or advancement than would be afforded currently under the Bylaws or this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) The Corporation hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement and insurance provided by one or more Persons with whom or which Indemnitee may be associated. The Corporation hereby acknowledges and agrees that (i) the Corporation shall be the indemnitor of first resort with respect to any Proceeding, Expense, Liability

or matter that is the subject of the Indemnity Obligations, (ii) the Corporation shall be primarily liable for all Indemnity Obligations and any indemnification afforded to Indemnitee in respect of any Proceeding, Expense, Liability or matter that is the subject of Indemnity Obligations, whether created by applicable law, organizational or constituent documents, contract (including this Agreement) or otherwise, (iii) any obligation of any other Persons with whom or which Indemnitee may be associated to indemnify Indemnitee or advance Expenses or Liabilities to Indemnitee in respect of any Proceeding shall be secondary to the obligations of the Corporation hereunder, (iv) the Corporation shall be required to indemnify Indemnitee and advance Expenses or Liabilities to Indemnitee hereunder to the fullest extent provided herein without regard to any rights Indemnitee may have against any other Person with whom or which Indemnitee may be associated or insurer of any such Person and (v) the Corporation irrevocably waives, relinquishes and releases any other Person with whom or which Indemnitee may be associated from any claim of contribution, subrogation or any other recovery of any kind in respect of amounts paid by the Corporation hereunder. In the event any other Person with whom or which Indemnitee may be associated or their insurers advances or extinguishes any liability or loss which is the subject of any Indemnity Obligation owed by the Corporation or payable under any Corporation insurance policy, the payor shall have a right of subrogation against the Corporation or its insurer or insurers for all amounts so paid which would otherwise be payable by the Corporation or its insurer or insurers under this Agreement. In no event will payment of an Indemnity Obligation by any other Person with whom or which Indemnitee may be associated or their insurers affect the obligations of the Corporation hereunder or shift primary liability for any Indemnity Obligation to any other Person with whom or which Indemnitee may be associated. Any indemnification, insurance or advancement provided by any other Person with whom or which Indemnitee may be associated with respect to any Liability arising as a result of Indemnitee's Corporate Status or capacity as an officer or director of any Person is specifically in excess over any Indemnity Obligation of the Corporation or any collectible insurance (including but not limited to any malpractice insurance or professional errors and omissions insurance) provided by the Corporation under this Agreement.

(c) To the extent that the Corporation maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents of the Corporation or of any other Enterprise, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies and such policies shall provide for and recognize that the insurance policies are primary to any rights to indemnification, advancement or insurance proceeds to which Indemnitee may be entitled from one or more Persons with whom or which Indemnitee may be associated to the same extent as the Corporation's indemnification and advancement obligations set forth in this Agreement. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Corporation has director and officer liability insurance in effect, the Corporation shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Corporation shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(d) In the event of any payment under this Agreement, the Corporation shall not be subrogated to the rights of recovery of Indemnitee, including rights of indemnification provided to Indemnitee

from any other person or entity with whom Indemnitee may be associated; *provided, however*, that the Corporation shall be subrogated to the extent of any such payment of all rights of recovery of Indemnitee under insurance policies of the Corporation or any of its subsidiaries.

(e) The indemnification and contribution provided for in this Agreement will remain in full force and effect regardless of any investigation made by or on behalf of Indemnitee.

Section 14. Duration of Agreement; Not Employment Contract. This Agreement shall continue until and terminate upon the latest of: (i) ten (10) years after the date that Indemnitee shall have ceased to serve as a director, officer, employee or agent of the Corporation or any other Enterprise and (ii) the date of final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advancement hereunder and of any proceeding commenced by Indemnitee pursuant to Section 12 of this Agreement relating thereto. This Agreement shall be binding upon the Corporation and its successors and assigns and shall inure to the benefit of Indemnitee and Indemnitee's heirs, executors and administrators. This Agreement shall not be deemed an employment contract between the Corporation (or any of its subsidiaries or any other Enterprise) and Indemnitee. Indemnitee specifically acknowledges that Indemnitee's employment with the Corporation (or any of its subsidiaries or any other Enterprise), if any, is at will, and Indemnitee may be discharged at any time for any reason, with or without cause, except as may be otherwise provided in any written employment contract between Indemnitee and the Corporation (or any of its subsidiaries or any other Enterprise), other applicable formal severance policies duly adopted by the Board, or, with respect to service as a director of the Corporation, by the Certificate of Incorporation, the Bylaws or the DGCL.

Section 15. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by applicable law; (b) such provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any Section of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 16. Enforcement.

(a) The Corporation expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as a director, officer, employee or agent of the Corporation, and the Corporation acknowledges that Indemnitee is relying upon this Agreement in serving as a director, officer, employee or agent of the Corporation.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof; *provided, however*, that this Agreement is a supplement to and in furtherance of the Certificate of Incorporation, the Bylaws and applicable law, and shall not be deemed a substitute therefore, nor diminish or abrogate any rights of Indemnitee thereunder.

Section 17. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties thereto. No waiver of any of the provisions of this Agreement shall be deemed to be or shall constitute a waiver of any other provision of this Agreement nor shall any waiver constitute a continuing waiver.

Section 18. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (c) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed or (d) sent by facsimile transmission, with receipt of oral confirmation that such transmission has been received:

- (a) If to Indemnitee, at such address as Indemnitee shall provide to the Corporation.
- (b) If to the Corporation to:

Spark Energy, Inc.
12140 Wickchester Lane, Suite 100
Houston, Texas 77079
Attention: Board of Directors

or to any other address as may have been furnished to Indemnitee by the Corporation.

Section 19. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Corporation, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for Liabilities or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Corporation and Indemnitee as a result of the event(s) and transaction(s) giving cause to such Proceeding; and (ii) the relative fault of the Corporation (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and transaction(s).

Section 20. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by Indemnitee pursuant to Section 12(a) of this Agreement, the

Corporation and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Chancery Court of the State of Delaware (the "Delaware Court"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

Section 21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 22. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

SPARK ENERGY, INC.

INDEMNITEE

By: /s/ Jim Jones

/s/ Kevin McMinn

Name: Jim Jones

Name: Kevin McMinn

Title: Chief Financial Officer

Title: Chief Operating Officer

[Signature Page to Indemnification Agreement]

Spark Appoints Keith Maxwell as Interim CEO

HOUSTON, March 12, 2020 (ACCESSWIRE) -- Spark Energy, Inc.'s ("Spark" or the "Company") (NASDAQ: SPKE), an independent retail energy services company, board of directors announced today that Spark's founder, W. Keith Maxwell III, has been appointed as Interim Chief Executive Officer and Executive Chairman of the Board, effective immediately. Additionally, Kevin McMinn, formally Chief Sales Officer of Crius Energy and Chief Operating Officer of U.S. Gas & Electric, has been appointed as Spark's Chief Operating Officer.

Mr. Maxwell is a lifelong entrepreneur, operator, and founded Spark over 20 years ago. He continues to be the Company's largest shareholder and will remain, a member of the Board, and is extremely committed to his new role. Kevin McMinn has over 20 years of industry experience and has successfully built, operated, and sold several retail energy companies.

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.

Contact: Spark Energy, Inc.

Investors:

Mike Barajas, 832-200-3727

Media:

Kira Jordan, 832-255-7302

