

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 13E-3

**Rule 13e-3 Transaction Statement under Section 13(e)
of the Securities Exchange Act of 1934
(Amendment No. 1)**

Via Renewables, Inc.

(Name of the Issuer)

**Via Renewables, Inc.
William Keith Maxwell, III
Retailco, LLC
NuRetailco LLC
TxEx Energy Investments, LLC
Electric HoldCo, LLC
NuDevco Retail Holdings, LLC
NuDevco Retail, LLC
(Name of Persons Filing Statement)**

**Class A common stock, par value \$0.01 per share
(Title of Class of Securities)**

**92556D304
(CUSIP Number of Class of Securities)**

**Mike Barajas
Chief Financial Officer
12140 Wickchester Lane, Suite 100
Houston Texas 77079
(713) 600-2600**

**Retailco, LLC
c/o William Keith Maxwell, III
12140 Wickchester Lane, Suite 100
Houston Texas 77079
(713) 600-2600**

With copies to:

**Clint H. Smith
Thomas D. Kimball
Jones Walker LLP
201 St. Charles Avenue, Suite 5100
New Orleans, Louisiana 70170
(504) 582-8429**

**Darrell Taylor
Cokinos Young
1221 Lamar, 16th Floor
Houston, Texas 77010
(713) 535-5556**

(Name, Address, and Telephone Numbers of Person Authorized to Receive Notices and Communications on Behalf of the Persons Filing Statement)

This statement is filed in connection with (check the appropriate box):

- a. The filing of solicitation materials or an information statement subject to Regulation 14A (§§ 240.14a-1 through 240.14b-2), Regulation 14C (§§ 240.14c-1 through 240.14c-101) or Rule 13e-3(c) (§ 240.13e-3(c)) under the Securities Exchange Act of 1934 (“the Act”).
- b. The filing of a registration statement under the Securities Act of 1933.

c. A tender offer.

d. None of the above.

Check the following box if the soliciting materials or information statement referred to in checking box (a) are preliminary copies:

Check the following box if the filing is a final amendment reporting the results of the transaction:

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THE TRANSACTION CONTEMPLATED HEREIN, PASSED UPON THE MERITS OR FAIRNESS OF SUCH TRANSACTION, OR PASSED UPON THE ADEQUACY OR ACCURACY OF THE DISCLOSURE IN THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Introduction

This Amendment No. 1 to the Rule 13e-3 Transaction Statement on Schedule 13E-3 (as originally filed on February 12, 2024), together with the exhibits hereto (this “**Schedule 13E-3**”), is being filed with the Securities and Exchange Commission (the “**SEC**”) pursuant to Section 13(e) of the Securities Exchange Act of 1934, as amended (together with the rules and regulations promulgated thereunder, the “**Exchange Act**”), jointly by the following persons (each a “**Filing Person**,” and collectively the “**Filings Persons**”): (i) Via Renewables, Inc. (the “**Company**”), a Delaware corporation and the issuer of the shares of Class A common stock, par value \$0.01 per share (the “**Class A Common Stock**”), that are subject to the transaction pursuant to Rule 13e-3 under the Exchange Act; (ii) Retailco, LLC, a Texas limited liability company (“**Parent**”); (iii) NuRetailco LLC, a Delaware limited liability company and wholly-owned subsidiary of Parent (“**Merger Sub**”); (iv) William Keith Maxwell, III, an individual resident of the State of Texas and the sole owner of Parent and the indirect owner of Merger Sub (“**Mr. Maxwell**”); (v) TxEx Energy Investments, LLC, a Texas limited liability company, of which Mr. Maxwell is the direct sole owner (“**TxEx**”); (vi) Electric HoldCo, LLC, a Texas limited liability company, of which Mr. Maxwell is the indirect sole owner (“**Electric Holdco**”); (vii) NuDevco Retail Holdings, LLC, a Texas limited liability company, of which Mr. Maxwell is the indirect sole owner (“**NuDevco Retail Holdings**”); and (viii) NuDevco Retail, LLC, a Texas limited liability company, of which Mr. Maxwell is the indirect sole owner (“**NuDevco Retail**” and, together with Mr. Maxwell, TxEx, Electric Holdco and NuDevco Retail Holdings, the “**Maxwell Filing Persons**”).

As of March 11, 2024, Mr. Maxwell beneficially owned, individually and/or through one or more affiliates controlled by him, approximately (a) 23.2% of the outstanding Class A Common Stock and 100% of the Company’s outstanding 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**”). Such ownership comprises approximately 65.7% of the issued and outstanding Common Stock.

On December 29, 2023, the Company, Parent, and Merger Sub entered into an Agreement and Plan of Merger (the “**Merger Agreement**”), which provides for, among other things, the merger of Merger Sub with and into the Company (the “**Merger**”), with the Company surviving the Merger as the surviving corporation and becoming a direct, wholly-owned subsidiary of Parent (the “**Surviving Corporation**”), and the other transactions contemplated thereby (the “**Transactions**”). If the Merger is completed, then the shares of Class A Common Stock (other than: (i) shares of Class A Common Stock held (a) by the Company or any subsidiary of the Company, or (b) held or beneficially owned by Mr. Maxwell and any person or entity controlled by Mr. Maxwell, including Parent, Merger Sub and NuDevco Retail (such shares in (a) and (b), the “**Excluded Shares**”), and (ii) shares of Class A Common Stock held by any holder of record who did not vote in favor of the Merger Agreement and the Merger and is entitled to demand and validly demands appraisal of such shares pursuant to, and complies in all respects with, Section 262 of the Delaware General Corporation Law (the “**DGCL**”) (the “**Dissenting Shares**”)) will be canceled and converted into the right to receive \$11.00 in cash, without interest (the “**Merger Consideration**”).

If the Merger is completed, the Company, as the Surviving Corporation, will continue its operations under the name “Via Renewables, Inc.” Additionally, if the Merger is completed: (i) all of the shares of Class A Common Stock will be wholly-owned by Parent; (ii) the registration of the shares of Class A Common Stock and the Company’s reporting obligations with respect to the shares of Class A Common Stock under the Exchange Act will be terminated upon application to the SEC; (iii) the shares of Class A Common Stock will no longer be listed on any stock exchange or quotation system, including the Nasdaq Global Select Market (“**NASDAQ**”); and (iv) Mr. Maxwell and his affiliates will be the registered or beneficial owners of all of the shares of Class A Common Stock and all issued and outstanding shares of Class B Common Stock. The Company’s 8.75% Series A Fixed-to-Floating Rate Cumulative Redeemable Perpetual Preferred Stock, par value \$0.01 per share (the “**Series A Preferred Stock**”), is also registered under the Exchange Act, and is listed on the NASDAQ under the symbol “VIASP”. The Merger will not have any impact on the registration of the Series A Preferred Stock under the Exchange Act or the continued listing of the Series A Preferred Stock on NASDAQ. Accordingly, the Company expects that it will continue to be subject to the Exchange Act and continue to file reports with the SEC under the Exchange Act.

The board of directors of the Company (the “**Board**”) (other than Mr. Maxwell, Chairman of the Board, who is the sole owner of Parent and did not attend the meeting at which the Board considered the Merger), based on the unanimous recommendation of its Special Transaction Committee (the “**Special Committee**”) comprised solely of independent directors, has unanimously determined and approved (1) that the terms of the Merger Agreement, the Merger, the Merger Consideration and the Transactions, are fair to, and in the best interests of the Company and its shareholders (other than certain Excluded Shares and any shares held by any (i) member of the Board, (ii) any “officer” of the Company (as defined by Rule 16a-1(f) under the Exchange Act) and (iii) any immediate family members of any of the foregoing individuals (such shares in (b) being referred to as the “**Insider Shares**”) as set forth in the Merger Agreement), (2) that the Merger and the Transactions are in the best interests of the Company and its shareholders (other than the Excluded Shares and Insider Shares as set forth in the Merger Agreement), (3) that it is advisable for the Company to execute and deliver the Merger Agreement and to perform its covenants and other obligations under the Merger Agreement and to consummate the Merger upon the terms and conditions set forth in the Merger Agreement, and (4) recommended that the shareholders of the Company approve and adopt the Merger Agreement and the transactions contemplated thereby (including the Merger and the Transactions).

Concurrently with the filing of this Schedule 13E-3, the Company is filing with the SEC a revised preliminary proxy statement (the **“Proxy Statement”**) under Regulation 14A of the Exchange Act, relating to a special meeting of the shareholders of the Company at which the shareholders of the Company will consider and vote upon a proposal to adopt the Merger Agreement. The Merger remains subject to the satisfaction or waiver of the conditions set forth in the Merger Agreement, including obtaining the affirmative vote of (i) the holders of at least a majority of the issued and outstanding shares of Common Stock, and (ii) as a non-waivable condition, the holders of at least a majority of the issued and outstanding shares of Common Stock other than (A) Excluded Shares and (B) Insider Shares, in each case of (i) and (ii) in accordance with the Company’s certificate of incorporation and bylaws and Delaware law.

If the Merger is completed, at the effective time of the Merger (the “**Effective Time**”):

- Each of the outstanding shares of the Class A Common Stock other than (i) the Excluded Shares and (ii) Dissenting Shares will be canceled and converted into the right to receive the Merger Consideration;
- each Excluded Share will be canceled without payment of any consideration thereof;
- each Dissenting Share will be canceled and converted into the right to receive payment of such amounts that are payable in accordance with Section 262 of the DGCL and will not have the right to receive the Merger Consideration, unless and until such shareholder loses, waives or withdraws its rights as a dissenting Company shareholder; and
- each share of capital stock of the Merger Sub will be converted into one share of Class A Common Stock of the Surviving Corporation.

All of the outstanding restricted stock units of the Company (the “**Company RSUs**”) other than the restricted stock units of the Company held by Mr. Maxwell (the “**Maxwell RSUs**”), all of which are held by current and former employees and directors of the Company, including its executive officers, will be canceled, extinguished and converted into the right to receive cash (without interest) equal to the number of shares of Class A Common Stock underlying the award multiplied by the Merger Consideration. All of the Maxwell RSUs shall automatically be canceled and cease to exist at the Effective Time and no consideration therefor shall be delivered or deliverable to Mr. Maxwell.

Concurrently with the execution and delivery of the Merger Agreement, Parent, Merger Sub, Mr. Maxwell and four other affiliated entities, TxEx, Electric Holdco, NuDevco Retail Holdings, and NuDevco Retail (the “**Subject Shareholders**”), entered into a support agreement pursuant to which, among other things, the Subject Shareholders have agreed, subject to the terms and conditions set forth therein, to (i) vote their shares of Common Stock in favor of the approval and adoption of the Merger Agreement and the Transactions, including the Merger. It also reflects the Subject Shareholders’ agreement to vote against any proposal, offer or submission with respect to a Competing Transaction (as defined in the Merger Agreement).

The Merger is not subject to any financing condition, and the Maxwell Filing Persons intend to fund the amount needed for the Merger Consideration from a Credit Agreement and Guaranty dated as of August 15, 2023 (the “**Credit Facility**”) by and among Parent, TxEx, and NuDevco Retail, as Borrowers (the “**Borrowers**”); and Mr. Maxwell, Electric Holdco, and NuDevco Retail Holdings, as Guarantors (the “**Guarantors**”); Woodforest National Bank, a national banking association, as administrative agent, lead arranger and sole bookrunner; and Origin Bank, as syndication agent.

The Credit Facility provides for one or more secured term loan borrowings until August 15, 2025. The Borrowers may not borrow, repay, and reborrow term loans under the Credit Facility. Borrowings under the Credit Facility are secured by substantially all property of the Borrowers and the Guarantors, including, among others, (i) any properties encumbered by mortgages in favor of the administrative agent, and (ii) all of TxEx’s equity interests in Parent and Electric Holdco, all of the shares of Class B Common Stock of the Company owned by Parent and NuDevco Retail, all of Electric Holdco’s equity interests in NuDevco Retail Holdings, and all of NuDevco Retail Holdings’ equity interests in NuDevco Retail. All shares of Class B Common Stock of the Company held by Parent and NuDevco Retail are pledged as collateral under the Credit Facility.

Borrowings under the Credit Facility bear interest at varying rates, depending on the type of loan and the rates of designated benchmarks and the applicable Borrower’s election. For all borrowings under the Credit Facility, the applicable Borrower may choose among the following interest rates: (i) for any day, an interest rate equal to the highest of (1) the prime rate in effect on that day, (2) the federal funds effective rate in effect on that day plus 0.5%, and (3) adjusted term SOFR for a one-month interest period plus 1.00%, in each case plus an applicable margin of 3.0%; or (ii) an interest rate equal to adjusted term SOFR plus an applicable margin of 4.0%.

The Credit Facility contains customary covenants relating to the Borrowers and the Guarantors concerning, among other things, investments, dispositions of assets, indebtedness, liens on assets, and dividends and other distributions. The Credit Facility contains customary events of default. If an event of default occurs and is continuing, the lenders may, among other things, terminate their obligations under the Credit Facility and require the Borrowers to repay all amounts thereunder. In addition, in the case of an event of default arising from certain events of bankruptcy, insolvency or reorganization, the lenders’ obligations under the Credit Facility will automatically terminate and all amounts outstanding under the Credit Facility will automatically become due and payable. The Credit Facility will expire on August 15, 2026.

The Borrowers intend to repay the borrowings under the Credit Facility pursuant to its terms. There are no current plans or arrangements to repay the loan aside from those terms and conditions as set forth in the Credit Facility agreement. The Maxwell Filing Persons have no other current alternative financing plans or arrangements in the event the Maxwell Filing Persons are unable to obtain the funds necessary to pay the Merger Consideration from the Credit Facility.

The cross-references below are being supplied pursuant to General Instruction G to Schedule 13E-3 and show the location in the Proxy Statement of the information required to be included in response to the items of Schedule 13E-3. Pursuant to General Instruction F to Schedule 13E-3, the information contained in the Proxy Statement, including all appendices thereto, is incorporated in its entirety herein by this reference, and the responses to each item in this Schedule 13E-3 are qualified in their entirety by the information contained in the Proxy Statement and the appendices thereto. As of the date hereof, the Proxy Statement is in preliminary form and is subject to completion. Capitalized terms used but not defined in this Schedule 13E-3 shall have the meanings given to them in the Proxy Statement.

All information contained in this Schedule 13E-3 concerning each Filing Person has been supplied by such Filing Person.

Item 1. Summary Term Sheet.

The information set forth in the Proxy Statement under the following caption is incorporated herein by reference:

“Summary Term Sheet”

Item 2. Subject Company Information.

(a) *Name and Address.* The Company’s name and the address and telephone of its principal executive offices are as follows:

Via Renewables, Inc.
12140 Wickchester Lane, Suite 100
Houston, Texas 77079
Telephone: (713) 600-2600

(b) *Securities.* The subject class of equity securities is the shares of Class A Common Stock. As of March 11 , 2024, 3,232,701 shares of Class A Common Stock were outstanding.

(c) *Trading Market and Price.* The information set forth in the Proxy Statement under the following caption is incorporated herein by reference:

“Important Information Regarding Via Renewables, Inc.—Market Price of the Class A Common Stock”

(d) *Dividends.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Important Information Regarding Via Renewables, Inc.—Dividends”

“The Merger Agreement—Conduct of Business Pending the Merger”

(e) *Prior Public Offerings.* The information set forth in the Proxy Statement under the following caption is incorporated herein by reference:

“Important Information Regarding Via Renewables, Inc.—Prior Public Offerings”

(f) *Prior Stock Purchases.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Important Information Regarding Via Renewables, Inc.—Issuer Purchases of Equity Securities”

“Important Information Regarding Via Renewables, Inc.—Transactions in Common Stock—Transactions by the Company—Transactions by the Company’s Directors and Executive Officers”

“Important Information Regarding Via Renewables, Inc.—Transactions in Common Stock—Transactions by the Company—Transactions by the Maxwell Filing Persons”

Item 3. Identity and Background of Filing Person.

(a)-(c) *Name and Address; Business and Background of Entities; Business and Background of Natural Persons.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“The Parties to the Merger—Via Renewables, Inc.”

“The Parties to the Merger—Parent”

“The Parties to the Merger—Merger Sub”

“The Parties to the Merger—William Keith Maxwell, III”

“The Parties to the Merger—Other Maxwell Filing Persons”

“The Parties to the Merger—Business and Background of Natural Persons Related to the Company”

“The Parties to the Merger—Business and Background of Persons Related to the Maxwell Filing Persons”

Item 4. Terms of the Transaction.

(a)(1) *Tender Offers.* Not applicable.

(a)(2) *Mergers or Similar Transactions.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Questions and Answers About the Special Meeting and the Merger”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—Certain Unaudited Prospective Financial Information”

“Special Factors—Opinion of the Special Committee’s Financial Advisor”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Special Factors—Plans for the Company After the Merger”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“Special Factors—Accounting Treatment of the Merger”

“Special Factors—Material U.S. Federal Income Tax Consequences of the Merger”

“The Special Meeting—Required Vote”

“The Merger Agreement—Effect of the Merger on the Capital Stock of the Company and Merger Sub”

“The Merger Agreement—Treatment of Company Equity Awards”

“The Merger Agreement—Payment of Merger Consideration”

“The Merger Agreement—Conditions to the Merger”

Appendix A: Merger Agreement

Appendix B: Support Agreement

- (c) *Different Terms.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Questions and Answers About the Special Meeting and the Merger”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“The Merger Agreement—Effect of the Merger on the Capital Stock of the Company and Merger Sub”

“The Merger Agreement—Treatment of Company Equity Awards”

“Advisory Vote on Golden Parachute Compensation (The Compensation Proposal)”

- (d) *Appraisal Rights.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Questions and Answers About the Special Meeting and the Merger”

“Rights of Appraisal”

Appendix D: Section 262 of the Delaware General Corporation Law

- (e) *Provisions for Unaffiliated Security Holders.* The information set forth in the Proxy Statement under the following caption is incorporated herein by reference:

“Provisions for Unaffiliated Shareholders”

- (f) *Eligibility for Listing or Trading.* Not applicable.

Item 5. Past Contacts, Transactions, Negotiations and Agreements.

(a) *Transactions.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Special Factors—Background of the Merger”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“The Parties to the Merger—Transactions between the Company and the Maxwell Filing Persons”

“The Merger Agreement—Treatment of Company Equity Awards”

“Important Information Regarding Via Renewables, Inc.—Security Ownership of Management and Certain Beneficial Owners”

“Important Information Regarding Via Renewables, Inc.—Transactions between the Company and the Maxwell Filing Persons”

(b)-(c) *Significant Corporate Events; Negotiations or Contacts.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“The Merger Agreement”

Appendix A: Merger Agreement

Appendix B: Support Agreement

(e) *Agreements Involving the Subject Company’s Securities.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“The Parties to the Merger—Transactions between the Company and the Maxwell Filing Persons”

“The Merger Agreement”

“Important Information Regarding Via Renewables, Inc.—Security Ownership of Management and Certain Beneficial Owners”

“Important Information Regarding Via Renewables, Inc.—Transactions between the Company and the Maxwell Filing Persons”

Appendix A: Merger Agreement

Appendix B: Support Agreement

Item 6. Purposes of the Transaction and Plans or Proposals.

(b) *Use of Securities Acquired.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Special Factors—Plans for the Company After the Merger”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Effects on the Company if the Merger is not Consummated”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“Special Factors—Delisting and Deregistration of the Class A Common Stock”

“Special Factors—Payment of the Merger Consideration and Surrender of Stock Certificates”

“The Merger Agreement—Effect of the Merger on the Capital Stock of the Company and Merger Sub”

“The Merger Agreement—Treatment of Company Equity Awards”

(c)(1)-(8) *Plans*. The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Questions and Answers About the Special Meeting and the Merger”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Special Factors—Plans for the Company After the Merger”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“Special Factors—Delisting and Deregistration of the Class A Common Stock”

“The Merger Agreement—Structure of the Merger”

“The Merger Agreement—Effect of the Merger on the Capital Stock of the Company and Merger Sub”

“The Merger Agreement—Treatment of Company Equity Awards”

“The Merger Agreement—Payment of Merger Consideration”

“Delisting and Deregistration of Class A Common Stock”

Appendix A: Merger Agreement

Appendix B: Support Agreement

Item 7. Purposes, Alternatives, Reasons and Effects.

(a) *Purposes*. The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Special Factors—Plans for the Company After the Merger”

(b) *Alternatives*. The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

(c) *Reasons*. The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Special Factors—Plans for the Company After the Merger”

(d) *Effects.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Questions and Answers About the Special Meeting and the Merger”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Special Factors—Plans for the Company After the Merger”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Effects on the Company if the Merger is not Consummated”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“Special Factors—Accounting Treatment of the Merger”

“Special Factors—Material U.S. Federal Income Tax Consequences of the Merger”

“Special Factors—Payment of the Merger Consideration and Surrender of Stock Certificates”

“The Merger Agreement—Effect of the Merger on the Capital Stock of the Company and Merger Sub”

“The Merger Agreement—Treatment of Company Equity Awards”

“The Merger Agreement—Conduct of Business Pending the Merger”

“Rights of Appraisal”

Appendix A: Merger Agreement

Item 8. Fairness of the Transaction.

(a)-(b) *Fairness; Factors Considered in Determining Fairness.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Questions and Answers About the Special Meeting and the Merger”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—Certain Unaudited Prospective Financial Information”

“Special Factors—Opinion of the Special Committee’s Financial Advisor”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Special Factors—Certain Effects of the Merger”

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

Appendix C: Opinion of B. Riley Securities, Inc.

Appendix E: Prospective Financial Information (The “Projections”)

In addition, (i) the preliminary presentation of B. Riley Securities, Inc. to the Special Committee, dated December 7, 2023, and the presentation of B. Riley Securities, Inc. to the Special Committee, dated December 29, 2023, are attached to this Schedule 13E-3 as Exhibits (c)(2) and (c)(3), respectively, and (ii) the presentation of B. Riley Securities, Inc. to the Special Committee, dated January 10, 2024, the presentation of B. Riley Securities, Inc. to the Special Committee, dated January 18, 2024, and the presentation of B. Riley Securities, Inc. to the Special Committee, dated January 26, 2024, are attached to this Schedule 13E-3 as Exhibits (c)(4), (c)(5) and (c)(6), respectively.

(c) *Approval of Security Holders.* The information set forth in the Proxy Statement under the following caption is incorporated herein by reference:

“The Special Meeting—Required Vote”

(d)-(e) *Unaffiliated Representative; Approval of Directors.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

(f) *Other Offers.* The information set forth in the Proxy Statement under the following caption is incorporated herein by reference:

“Special Factors—Background of the Merger”

Item 9. Reports, Opinions, Appraisals and Negotiations.

(a)-(c) *Report, Opinion, or Appraisal; Preparer and Summary of the Report, Opinion, or Appraisal; Availability of Documents.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—Opinion of the Special Committee’s Financial Advisor”

“Special Factors—The Maxwell Filing Persons’ Purposes and Reasons for the Merger”

“Special Factors—Position of the Maxwell Filing Persons as to Fairness of the Merger”

“Where Shareholders Can Find More Information”

Appendix C: Opinion of B. Riley Securities, Inc.

In addition, (i) the preliminary presentation of B. Riley Securities, Inc. to the Special Committee, dated December 7, 2023, and the presentation of B. Riley Securities, Inc. to the Special Committee, dated December 29, 2023, are attached to this Schedule 13E-3 as Exhibits (c)(2) and (c)(3), respectively, and (ii) the presentation of B. Riley Securities, Inc. to the Special Committee, dated January 10, 2024, the presentation of B. Riley Securities, Inc. to the Special Committee, dated January 18, 2024, and the presentation of B. Riley Securities, Inc. to the Special Committee, dated January 26, 2024, are attached to this Schedule 13E-3 as Exhibits (c)(4), (c)(5) and (c)(6), respectively.

The reports, opinions or appraisals referenced in this Item 9 will be made available for inspection and copying at the principal executive offices of the Company during regular business hours.

Item 10. Source and Amounts of Funds or Other Consideration.

(a); (c) *Source of Funds; Expenses.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet—Financing the Merger; Source of Funds”

“The Merger Agreement—Financing the Merger; Source of Funds”

“Special Factors—Fees and Expenses”

Appendix A: Merger Agreement

Credit Agreement and Guaranty dated as of August 15, 2023 by and among Retailco, LLC, TxEx Energy Investments, LLC, NuDevco Retail, LLC, as Borrowers, and William Keith Maxwell, III, Electric Holdco, LLC, NuDevco Retail Holdings, LLC, as Guarantors; Woodforest National Bank, a national banking association, as administrative agent, lead arranger and sole bookrunner; and Origin Bank, as syndication agent, is attached hereto as Exhibit (b)(1) and is incorporated herein by reference.

(b) *Conditions.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet—Financing the Merger; Source of Funds”

“The Merger Agreement—Financing the Merger; Source of Funds”

Credit Agreement and Guaranty dated as of August 15, 2023 by and among Retailco, LLC, TxEx Energy Investments, LLC, NuDevco Retail, LLC, as Borrowers, and William Keith Maxwell, III, Electric Holdco, LLC, NuDevco Retail Holdings, LLC, as Guarantors; Woodforest National Bank, a national banking association, as administrative agent, lead arranger and sole bookrunner; and Origin Bank, as syndication agent, is attached hereto as Exhibit (b)(1) and is incorporated herein by reference.

(d) *Borrowed Funds.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet—Financing the Merger; Source of Funds”

“The Merger Agreement—Financing the Merger; Source of Funds”

Credit Agreement and Guaranty dated as of August 15, 2023 by and among Retailco, LLC, TxEx Energy Investments, LLC, NuDevco Retail, LLC, as Borrowers, and William Keith Maxwell, III, Electric Holdco, LLC, NuDevco Retail Holdings, LLC, as Guarantors; Woodforest National Bank, a national banking association, as administrative agent, lead arranger and sole bookrunner; and Origin Bank, as syndication agent, is attached hereto as Exhibit (b)(1) and is incorporated herein by reference.

Item 11. Interest in Securities of the Subject Company.

(a) *Securities Ownership.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“Important Information Regarding Via Renewables, Inc.—Security Ownership of Management and Certain Beneficial Owners”

(b) *Securities Transactions.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Important Information Regarding Via Renewables, Inc.—Issuer Purchases of Equity Securities”

“Important Information Regarding Via Renewables, Inc.—Transactions in Common Stock—Transactions by the Company”

“Important Information Regarding Via Renewables, Inc.—Transactions in Common Stock—Transactions by the Company—Transactions by the Company’s Directors and Executive Officers”

“Important Information Regarding Via Renewables, Inc.—Transactions in Common Stock—Transactions by the Company—Transactions by the Maxwell Filing Persons”

Item 12. The Solicitation or Recommendation.

(d) *Intent to Tender or Vote in a Going-Private Transaction.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Interests of the Company’s Directors and Executive Officers in the Merger”

“The Merger Agreement—Other Covenants and Agreements”

“The Merger Agreement—Support Agreement”

Appendix B: Support Agreement

(e) *Recommendations of Others.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Summary Term Sheet”

“Special Factors—Background of the Merger”

“Special Factors—Purposes and Reasons of the Company for the Merger; Recommendation of the Board and the Special Committee; Fairness of the Merger”

“Special Factors—Intent to Vote in Favor of the Merger”

Item 13. Financial Statements.

- (a) *Financial Information.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Important Information Regarding Via Renewables, Inc.—Summary Historical Consolidated Financial Data”

“Important Information Regarding Via Renewables, Inc.—Book Value Per Share”

“Where Shareholders Can Find More Information”

The audited financial statements set forth in Item 8 of the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2023, filed with the SEC on February 29, 2024, are incorporated herein by reference.

- (b) *Pro Forma Information.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Certain Unaudited Prospective Financial Information”

Appendix E: Prospective Financial Information (The “Projections”)

Item 14. Persons/Assets, Retained, Employed, Compensated or Used.

- (a) *Solicitations or Recommendations.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Questions and Answers About the Special Meeting and the Merger”

“The Special Meeting—Solicitation of Proxies”

“Where Shareholders Can Find More Information”

- (b) *Employees and Corporate Assets.* Not applicable.

Item 15. Additional Information.

- (b) *Golden Parachute Payments.* The information set forth in the Proxy Statement under the following captions is incorporated herein by reference:

“Special Factors—Golden Parachute Compensation”

“Advisory Vote on Golden Parachute Compensation (The Compensation Proposal)”

- (c) *Other Material Information.* The information set forth in the Proxy Statement, including all appendices thereto, is incorporated herein by reference.

Item 16. Exhibits.

Exhibit No.	Exhibit
(a)(1)	Preliminary Proxy Statement of Via Renewables, Inc. (included in the Schedule 14A filed with the Securities and Exchange Commission on March 12, 2024 and incorporated herein by reference (the “ Proxy Statement ”).
(a)(2)	Form of Proxy Card (included in the Proxy Statement and incorporated herein by reference).
(a)(3)	Letter to Company Shareholders (included in the Proxy Statement and incorporated herein by reference).
(a)(4)	Notice of Special Meeting of Shareholders (included in the Proxy Statement and incorporated herein by reference).
(a)(5)	Press Release dated January 2, 2024 (incorporated herein by reference to Exhibit 99.1 to the Company’s Current Report on Form 8-K filed on January 2, 2024).
(b)(1)*	Credit Agreement and Guaranty dated as of August 15, 2023 by and among Retailco, LLC, TxEx Energy Investments, LLC, NuDevco Retail, LLC, as Borrowers, and William Keith Maxwell, III, Electric Holdco, LLC, NuDevco Retail Holdings, LLC, as Guarantors; Woodforest National Bank, a national banking association, as administrative agent, lead arranger and sole bookrunner; and Origin Bank, as syndication agent.
(c)(1)	Opinion of B. Riley Securities, Inc. (incorporated herein by reference to Appendix C of the Proxy Statement).
(c)(2)*	Preliminary Presentation, dated December 7, 2023 of B. Riley Securities, Inc. to the Special Committee.
(c)(3)*	Presentation, dated December 29, 2023 of B. Riley Securities, Inc. to the Special Committee.
(c)(4)**#	Presentation, dated January 10, 2024 of B. Riley Securities, Inc. to the Special Committee.
(c)(5)**#	Presentation, dated January 18, 2024 of B. Riley Securities, Inc. to the Special Committee.
(c)(6)**#	Presentation, dated January 26, 2024 of B. Riley Securities, Inc. to the Special Committee.
(d)(1)	Agreement and Plan of Merger, dated December 29, 2023, among Retailco, LLC, NuRetailco LLC and Via Renewables, Inc. (incorporated herein by reference to Appendix A of the Proxy Statement).
(d)(2)	Support Agreement, dated as of December 29, 2023, by and between Retailco, LLC, TxEx Energy Investments, LLC, a Texas limited liability company, Electric HoldCo, LLC, a Texas limited liability company, NuDevco Retail Holdings, LLC, a Texas limited liability company, NuDevco Retail, LLC, a Texas limited liability company, and W. Keith Maxwell, III (incorporated herein by reference to Appendix B of the Proxy Statement).
(f)(1)	Section 262 of the General Corporation Law of the State of Delaware (incorporated herein by reference to Appendix D of the Proxy Statement).
(g)	None.
(h)	None.
107*	Filing Fee Table.

* Previously filed with the Schedule 13E-3 filed with the SEC on February 12, 2024.

** Filed herewith.

Confidential information has been redacted from this exhibit and filed separately with the SEC. Confidential treatment has been requested with respect to this redacted information.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12 , 2024

VIA RENEWABLES, INC.

By: /s/ Mike Barajas

Name: Mike Barajas

Title: Chief Financial Officer

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12 , 2024

RETAILCO, LLC

By: /s/ W. Keith Maxwell, III

Name: W. Keith Maxwell, III

Title: Chief Executive Officer

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12 , 2024

NURETAILCO LLC

By: /s/ W. Keith Maxwell, III

Name: W. Keith Maxwell, III

Title: President and Secretary

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12 , 2024

W. KEITH MAXWELL, III

/s/ W. Keith Maxwell, III

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12, 2024

TXEX ENERGY INVESTMENTS, LLC

By: /s/ W. Keith Maxwell, III

Name: W. Keith Maxwell, III

:

Title: Chief Executive Officer

:

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12, 2024

ELECTRIC HOLDCO, LLC

By: /s/ W. Keith Maxwell, III

Name: W. Keith Maxwell, III

Title: Chief Executive Officer

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12, 2024

NUDEVCO RETAIL HOLDINGS, LLC

By: /s/ W. Keith Maxwell, III

Name: W. Keith Maxwell, III

Title: Chief Executive Officer

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: March 12, 2024

NUDEVCO RETAIL, LLC

By: /s/ W. Keith Maxwell, III

Name: W. Keith Maxwell, III

Title: Chief Executive Officer

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EX-99.(C)(4) 2 ny20020120x4_exc-4.htm EXHIBIT (C)(4)

Exhibit (c)(4)
Confidential

Project Bluebonnet Go-Shop Outreach Update

As of 1/10/2024

Project Bluebonnet - Go-Shop Outreach Summary	
Total Buyers Contacted	52
NDA's Currently in Process	1
NDA's Executed / VDR Access Sent	2
Passed / Declined (Pre-NDA)	3
Passed / Declined (Post-NDA)	0

Total Buyers Contacted	
Algonquin Power	LS Power Equity Partners
Ara Partners	Macquarie
Avangrid	Mitsubishi Corporation (Boston Energy)
Blackstone (Kindle Energy)	Mitsui & Co., Ltd.
Brookfield Asset Management Inc.	NextEra Energy, Inc. (Gexa)
Calpine Corporation	Nonantum Capital
CrossPlane Capital	Nordic Energy
EDP	NRG Energy, Inc.
Elliott Management	Octopus Energy
Energy Capital	OGE
Energy Harbor Corporation	One Rock Capital Partners
ENGIE North America	Onward Energy (Southwest Generation)
Evergy	Rock Hill
Eversource Energy	Royal Dutch Shell
Exelon Corporation	Staple Street Capital
Forte Energy	Starwood Energy Group
Freepoint Energy Solutions	Sunnova Energy Corporation
Genie Energy Ltd.	Talen Energy (PPL Energy Solutions)
Hanwha Energy Corporation	TexGen
Hastings Equity	The AES Corporation
Hearthstone Utilities	TOTAL S.A.
Hicks Equity Partners	Turnbridge Capital
I Squared Capital Advisors	VAI, Inc.

Interstate Gas Supply, Inc.	Vistra Energy Corp. (NYSE: VST)
JP Morgan Asset Management	Warburg Pincus
Legacy Trust	Whitedeer Energy

NDA's Currently in Process	
**	

NDA's Executed/VDR Access Sent	
**	
**	

Passed / Declined (Pre-NDA)	
CrossPlane Capital	
Genie Energy Ltd.	
One Rock Capital Partners	

Passed / Declined (Post-NDA)	

* Represents Strategic Buyers

** - Confidential information has been redacted from this exhibit and filed separately with the U.S. Securities and Exchange Commission. Confidential treatment has been requested with respect to this redacted information.



Exhibit (c)(5)
Confidential

Project Bluebonnet Go-Shop Outreach Update
As of 1/18/2024

Project Bluebonnet - Go-Shop Outreach Summary	
Total Buyers Contacted	52
NDA's Currently in Process	0
NDA's Executed / VDR Access Sent	3
Passed / Declined (Pre-NDA)	8
Passed / Declined (Post-NDA)	0

Total Buyers Contacted	
Algonquin Power	LS Power Equity Partners
Ara Partners	Macquarie
Avangrid	Mitsubishi Corporation (Boston Energy)
Blackstone (Kindle Energy)	Mitsui & Co., Ltd.
Brookfield Asset Management Inc.	NextEra Energy, Inc. (Gexa)
Calpine Corporation	Nonantum Capital

CrossPlane Capital	Nordic Energy
EDP	NRG Energy, Inc.
Elliott Management	Octopus Energy
Energy Capital	OGE
Energy Harbor Corporation	One Rock Capital Partners
ENGIE North America	Onward Energy (Southwest Generation)
Evergy	Rock Hill
Eversource Energy	Royal Dutch Shell
Exelon Corporation	Staple Street Capital
Forte Energy	Starwood Energy Group
Freepoint Energy Solutions	Sunnova Energy Corporation
Genie Energy Ltd.	Talen Energy (PPL Energy Solutions)
Hanwha Energy Corporation	TexGen
Hastings Equity	The AES Corporation
Hearthstone Utilities	TOTAL S.A.
Hicks Equity Partners	Turnbridge Capital
I Squared Capital Advisors	VAI, Inc.
Interstate Gas Supply, Inc.	Vistra Energy Corp. (NYSE: VST)
JP Morgan Asset Management	Warburg Pincus
Legacy Trust	Whitedeer Energy

NDA's Currently in Process	

NDA's Executed / VDR Access Sent	
**	
**	
**	

Passed / Declined (Pre-NDA)	
Ara Partners	Nonantum Capital
CrossPlane Capital	One Rock Capital Partners
Genie Energy Ltd.	Rock Hill
Mitsubishi Corporation (Boston Energy)	Turnbridge Capital

Passed / Declined (Post-NDA)	

** Represents Strategic Buyers*

** - Confidential information has been redacted from this exhibit and filed separately with the U.S. Securities and Exchange Commission. Confidential treatment has been requested with respect to this redacted information.



As of 1/26/2024

Project Bluebonnet - Go-Shop Outreach Summary	
Total Buyers Contacted	52
NDAs Currently in Process	0
NDAs Executed / VDR Access Sent	2
Passed / Declined (Pre-NDA)	8
Passed / Declined (Post-NDA)	1

Total Buyers Contacted	
Algonquin Power	LS Power Equity Partners
Ara Partners	Macquarie
Avangrid	Mitsubishi Corporation (Boston Energy)
Blackstone (Kindle Energy)	Mitsui & Co., Ltd.
Brookfield Asset Management Inc.	NextEra Energy, Inc. (Gexa)
Calpine Corporation	Nonantum Capital
CrossPlane Capital	Nordic Energy
EDP	NRG Energy, Inc.
Elliott Management	Octopus Energy
Energy Capital	OGE
Energy Harbor Corporation	One Rock Capital Partners
ENGIE North America	Onward Energy (Southwest Generation)
Evergy	Rock Hill
Eversource Energy	Royal Dutch Shell
Exelon Corporation	Staple Street Capital
Forte Energy	Starwood Energy Group
Freepoint Energy Solutions	Sunnova Energy Corporation
Genie Energy Ltd.	Talen Energy (PPL Energy Solutions)
Hanwha Energy Corporation	TexGen
Hastings Equity	The AES Corporation
Hearthstone Utilities	TOTAL S.A.
Hicks Equity Partners	Turnbridge Capital
I Squared Capital Advisors	VAI, Inc.
Interstate Gas Supply, Inc.	Vistra Energy Corp. (NYSE: VST)
JP Morgan Asset Management	Warburg Pincus
Legacy Trust	Whitedeer Energy

NDAs Currently in Process	

NDAs Executed / VDR Access Sent	
**	
**	

Passed / Declined (Pre-NDA)	
Ara Partners	Nonantum Capital
CrossPlane Capital	One Rock Capital Partners
Genie Energy Ltd.	Rock Hill
Mitsubishi Corporation (Boston Energy)	Turnbridge Capital

Passed / Declined (Post-NDA)	
**	

** Represents Strategic Buyers*

** - Confidential information has been redacted from this exhibit and filed separately with the U.S. Securities and Exchange Commission. Confidential treatment has been requested with respect to this redacted information.

