Risk Factors Comparison 2024-02-29 to 2023-02-28 Form: 10-K

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We face many risks. If any of the events or circumstances described below actually occur, we and our businesses, financial condition or results of operations could suffer, and the trading price of our Class A Common Stock could decline. Our current and potential investors should consider the following risks and the information contained under the heading " Cautionary Note Regarding Forward- Looking Statements " before deciding to invest in our securities. Risks Related to Our Business If demand for our energy efficiency and renewable energy solutions does not develop as we expect, our revenues will suffer, and our business will be harmed. We believe, and our growth plans assume, that the market for energy efficiency and renewable energy solutions will continue to grow, that we will increase our penetration of this market and that our revenues from selling into this market will continue to increase over time. If our expectations as to the size of this market and our ability to sell our products and services in this market are not correct, our revenues will suffer, and our business will be harmed. In order to secure contracts for new projects, we typically face a long and variable selling cycle that requires significant resource commitments and requires a long lead time before we realize revenues. The sales cycle for energy efficiency and renewable energy projects in general take from 18 to 42 months, with sales to federal government and housing authority customers tending to require the longest sales processes. Our sales cycle has been further lengthened as a result of macroeconomic conditions and we cannot predict the timeline for our selling cycle in the current conditions. Our existing and potential customers generally follow extended budgeting and procurement processes, and sometimes must engage in regulatory approval processes related to our services. Our customers often use outside consultants and advisors, which contributes to a longer sales cycle. Most of our potential customers issue an RFP, as part of their consideration of alternatives for their proposed project. In preparation for responding to an RFP, we typically conduct a preliminary audit of the customer' s needs and the opportunity to reduce its energy costs. For projects involving a renewable energy plant that is not located on a customer' s site or that uses sources of energy not within the customer' s control, the sales process also involves the identification of sites with attractive sources of renewable energy, such as a landfill or a favorable site for solar PV, and it may involve obtaining necessary rights and governmental permits to develop a project on that site. If we are awarded a project, we then perform a more detailed audit of the customer' s facilities, which serves as the basis for the final specifications of the project. We then must negotiate and execute a contract with the customer. In addition, we or the customer typically need to obtain financing for the project. This extended sales process requires the dedication of significant time by our sales and management personnel and our use of significant financial resources, with no certainty of success or recovery of our related expenses. A potential customer may go through the entire sales process and not accept our proposal. All of these factors can contribute to fluctuations in our quarterly financial performance and increase the likelihood that our operating results in a particular quarter will fall below investor expectations. These factors could also adversely affect our business, financial condition and operating results due to increased spending by us that is not offset by increased revenues. We may not recognize all revenues from our backlog or receive all payments anticipated under awarded projects and customer contracts. As of December 31, **2023 and** 2022 ~~and 2021~~, we had backlog of approximately $ 1. ~~0~~ **3** billion and $ 1. ~~5~~ **0** billion, respectively, in expected future revenues under signed customer contracts for the installation or construction of projects, which we sometimes refer to as fully- contracted backlog; and we also had been awarded projects for which we do not yet have signed customer contracts with estimated total future revenues of an additional $ ~~1~~ **2** . 6 billion and $ 1. ~~5~~ **6** billion, respectively. As of December 31, **2023 and** 2022 ~~and 2021~~, we had O & M backlog of approximately $ 1. 2 billion ~~and $ 1. 1 billion, respectively~~. Our O & M backlog represents expected future revenues under signed **,** multi- year customer contracts for the delivery of O & M services, primarily for energy efficiency and renewable energy construction projects completed by us for our customers. Our customers have the right under some circumstances to terminate contracts or defer the timing of our services and their payments to us. In addition, our government contracts are subject to the risks described below under " Provisions in government contracts may harm our business, financial condition and operating results. " The payment estimates for projects that have been awarded to us but for which we have not yet signed contracts have been prepared by management and are based upon a number of assumptions, including that the size and scope of the awarded projects will not change prior to the signing of customer contracts, that we or our customers will be able to obtain any necessary third- party financing for the awarded projects, and that we and our customers will reach agreement on and execute contracts for the awarded projects. We are not always able to enter into a contract for an awarded project on the terms proposed. As a result, we may not receive all of the revenues that we include in the awarded projects component of our backlog or that we estimate we will receive under awarded projects. If we do not receive all of the revenue we currently expect to receive, our future operating results will be adversely affected. In addition, a delay in the receipt of revenues, even if such revenues are eventually received, may cause our operating results for a particular quarter to fall below our expectations. If we are not able to complete, perform or operate our projects on a profitable basis or as we have committed to our customers, we could become subject to liquidated damages, and our reputation and our results of operations could be adversely impacted. Development, installation, and construction of our energy efficiency and renewable energy projects, and operation of our renewable energy projects, entails many risks, including: • failure or delays in receiving components and equipment that meet our requirements, • failure or delays in obtaining all necessary rights to land access and use, • failure or delays in receiving quality performance of contractors and other third- party service providers, • increases (including as a result of inflation) in the cost of labor, equipment, and commodities needed to construct or operate projects, • failure or delays in obtaining permitting and addressing other regulatory issues, license revocation, and changes in legal requirements, • failure or delays in obtaining other governmental support or approvals, or in overcoming objections from members of the public or adjoining ~~land owners~~ **landowners** ~~;~~ **,** • shortages of equipment or skilled labor, • unforeseen engineering problems, • failure of a customer to accept or pay for renewable energy that we supply, • weather interferences, catastrophic events including fires, explosions, earthquakes, droughts, and acts of terrorism; and accidents involving personal injury or the loss of life, • environmental, archaeological or geological conditions • health or similar issues, a pandemic, or epidemic, such as COVID- 19, • labor disputes and work stoppages, • mishandling of hazardous substances and waste, and other events outside of our control. Any of these factors could give rise to construction delays, costs in excess of our expectations or cause us not to meet commitments given to our customers. We have, for example, experienced disruptions in development, installation and construction as a result of **continued** supply chain and logistics challenges ~~, COVID- 19 and the related quarantines~~ , facility closures, and we may continue to experience such disruptions. In addition, the impacts of climate change have caused us to experience more frequent and severe weather interferences which has impacted our construction timelines, and this trend may continue. Furthermore, while the passage of the ~~Inflation Reduction Act (“~~ IRA ~~”)~~ may increase the demand for our service and project offerings, it ~~may~~ **has** also ~~increase~~ **increased** demand and cost for labor, equipment and commodities needed for our projects. These factors and events could prevent us from completing construction of our projects, cause defaults under our financing agreements or under contracts that require completion of project construction by a certain time, give rise to liquidated damages or penalties, cause projects to be unprofitable for us, or otherwise impair our business, financial condition, and operating results. For example, our Turnkey Engineering, Procurement, Construction and Maintenance Agreement and the underlying purchase orders dated as of October 21, 2021 (the “ SCE Agreement ”) with SCE obligated us to achieve certain substantial completion milestone dates for the facilities no later than August 1, 2022, and for at least two years thereafter meet specified availability and capacity guarantees. ~~In 2022, SCE instructed us to adjust the project schedule into 2023.~~ As previously disclosed, **due to supply chain delays, weather and other events,** we **were unable to complete the projects by the guaranteed completion date of August 1, 2022 and** made force majeure claims **related to such** ~~under the SCE Agreement as battery supply~~ delays ~~resulting from COVID- 19 lockdowns in several regions around China, newly implemented Chinese transportation safety policies and related supply chain delays impacted our ability to achieve the August 1, 2022 completion date~~ . We **have been working** ~~are in ongoing discussions~~ with SCE ~~about~~ **to analyze** the applicability of force majeure relief to the project delays **and SCE has notified us that they intend to withhold liquidated damages for at least one of the three projects** . If we fail to satisfy certain milestone obligations, fail ~~to~~ come to an agreement with SCE ~~of appropriate extensions of these milestones and~~ **or otherwise resolve matters related to substantial completion or related** force majeure relief, or fail to meet the availability and capacity guarantees, we may be subject to liquidated damages and under certain circumstances SCE may have a right to terminate the agreement. **This** ~~The requirement to pay liquidated damages or the loss of business from SCE~~ could have a material adverse effect on our reputation, business or results of operations. A significant decline in the fiscal health of federal, state, provincial, and local governments could reduce demand for our energy efficiency and renewable energy projects. Historically, including for the years ended December 31, **2023 and** 2022 ~~and 2021~~ , **72 % and** 46 ~~% and 67~~ %, respectively, of our revenues have been derived from sales to federal, state, provincial, or local governmental entities, including public housing authorities, public universities, and municipal utilities. We expect revenues from this market sector to continue to comprise a significant percentage of our revenues for the foreseeable future. A significant decline in the fiscal health of these existing and potential customers may make it difficult for them to enter into contracts for our services ~~or~~ **,** to obtain financing necessary to fund such contracts, or may cause them to seek to renegotiate or terminate existing agreements with us. In addition, if there is a partial or full shutdown of any federal, state, provincial or local governing body this may adversely impact our financial performance. Provisions in our government contracts may harm our business, financial condition and operating results. A significant majority of our fully- contracted backlog and awarded projects is attributable to customers that are governmental entities. Our contracts with the federal government and its agencies, and with state, provincial, and local governments, customarily contain provisions that give the government substantial rights and remedies, many of which are not typically found in commercial contracts, including provisions that allow the government to: • terminate existing contracts, in whole or in part, for any reason or no reason, • reduce or modify contracts or subcontracts, • decline to award future contracts if actual or apparent organizational conflicts of interest are discovered, or to impose organizational conflict mitigation measures as a condition of eligibility for an award, • suspend or debar the contractor from doing business with the government or a specific government agency, and • pursue criminal or civil remedies under the False Claims Act, False Statements Act, and similar remedy provisions unique to government contracting. Under general principles of government contracting law, if the government terminates a contract for convenience, the terminated company may recover only its incurred or committed costs, settlement expenses, and profit on work completed prior to the termination. If the government terminates a contract for default, the defaulting company is entitled to recover costs incurred and associated profits on accepted items only and may be liable for excess costs incurred by the government in procuring undelivered items from another source. In most of our contracts with the federal government, the government has agreed to make a payment to us in the event that it terminates the agreement early. The termination payment is designed to compensate us for the cost of construction plus financing costs and profit on the work completed. In ESPCs for governmental entities, the methodologies for computing energy savings may be less favorable than for non- governmental customers and may be modified during the contract period. We may be liable for price reductions if the projected savings cannot be substantiated. In addition to the right of the federal government to terminate its contracts with us, federal government contracts are conditioned upon the continuing approval by Congress of the necessary spending to honor such contracts. Congress often appropriates funds for a program on a September 30 fiscal- year basis even though contract performance may take more than one year. Consequently, at the beginning of many major Governmental programs, contracts often may not be fully funded, and additional monies are then committed to the contract only if, as and when appropriations are made by Congress for future fiscal years. Similar practices are likely to also affect the availability of funding for our contracts with Canadian, as well as state, provincial, and local government entities. If one or more of our government contracts were terminated or reduced, or if appropriations for the funding of one or more of our contracts is delayed or terminated, our business, financial condition and operating results could be adversely affected. The projects we undertake for our customers generally require significant capital, which our customers or we may finance through third parties, and such financing may not be available to our customers or to us on favorable terms, if at all. Our projects for customers are typically financed by third parties. For small- scale renewable energy plants that we own, as well as certain larger projects for customers, such as the battery storage project with SCE, we typically rely on a combination of our working capital and debt to finance construction costs. If we or our customers are unable to raise funds on acceptable terms when needed or if we do not have sufficient working capital or availability under our existing financing arrangements, we may be unable to secure customer contracts, the size of contracts we do obtain may be smaller or we could be required to delay the development and construction of projects, reduce the scope of those projects or otherwise restrict our operations. Delays in customer projects could also subject us to claims by customers. Furthermore, the terms of financing arrangements that we may enter into, including increases in interest rates as compared to historical rates, have in the past and could in the future impact the profitability of our projects. In addition, any inability by us or our customers to raise the funds necessary to finance our projects or construction costs could materially harm our business, financial condition, and operating results. Project development or construction activities may require us to make significant investments without first obtaining project financing or having final customer contracts, which could increase our costs and impair our ability to recover our investments. We are at times required to spend significant sums for preliminary engineering, permitting, legal and other expenses before we can determine whether a project is feasible, economically attractive, or capable of being built **or financed** . We will often choose to bear the costs of such efforts prior to obtaining project financing, prior to getting final regulatory approval and prior to our final sale to a customer, if any. We have for example in the past commenced, and may in the future commence, development of certain projects, such as battery and solar projects, prior to having entered into final binding contracts with the customer **or financing party** . We expect to invest a significant amount of capital to develop projects whether owned by us or by third parties. If we are unable to complete the development of a project or enter into contracts with the customer, we may write- down or write- off some or all of these capitalized investments, which would have an adverse impact on our net income in the period in which the loss is recognized and could have an adverse impact our ability to finance our operations. We are exposed to the credit risk of some of our customers. Most of our revenues are derived under multi- year or long- term contracts with our customers, and our revenues are therefore dependent to a large extent on the creditworthiness of our customers **. For example, some of our large projects are with subsidiaries of Hawaiian Electric Industries and the impact of the August 2023 wildfires on Hawaiian Electric Industries financial condition could have a negative impact on these projects and our financial condition and ability to complete such projects** . During periods of economic downturn, our exposure to credit risks from our customers' increases, and our efforts to monitor and mitigate the associated risks may not be effective in reducing our credit risks. Our reliance on one or a few customers for a material portion of our revenue further exacerbates this risk. In the event of non- payment by one or more of our customers, our business, financial condition and operating results could be adversely affected. Our business is affected by seasonal trends and construction cycles, and these trends and cycles could have an adverse effect on our operating results. We are subject to seasonal fluctuations and construction cycles, particularly in climates that experience colder weather during the winter months, such as the northern United States and Canada, and climates that experience extreme weather events, such as wildfires, storms, or flooding, or at educational institutions, where large projects are typically carried out during summer months when their facilities are unoccupied. In addition, government customers, many of which have fiscal years that do not coincide with ours, typically follow annual procurement cycles and appropriate funds on a fiscal- year basis even though contract performance may take more than one year. Further, government contracting cycles can be affected by the timing of, and delays in, the legislative process related to government programs and incentives that help drive demand for energy efficiency and renewable energy projects. As a result, our revenues and operating income in the third and fourth quarter are typically higher, and our revenues and operating income in the first quarter are typically lower, than in other quarters of the year. As a result of such fluctuations, we may occasionally experience declines in revenue or earnings as compared to the immediately preceding quarter, and comparisons of our operating results on a period- to- period basis may not be meaningful. Failure of third parties to manufacture quality products or provide reliable services in a timely manner or at prices that are acceptable to us could cause delays in the delivery of our services and completion of our projects, which could damage our reputation, have a negative impact on our relationships with our customers and adversely affect our growth. Our success depends on our ability to provide services and complete projects in a timely manner, which in part depends on the ability of third parties to provide us with timely and reliable products and services at acceptable prices. In providing our services and completing our projects, we rely on products that meet our design specifications and components manufactured and supplied by third parties, as well as on services performed by subcontractors. We also rely on subcontractors to perform substantially all of the construction and installation work related to our projects; and we often need to engage subcontractors with whom we have no experience for our projects. We, our subcontractors and other third parties have been impacted by the global supply chain delays **and challenges** ~~as well as restrictions imposed because of the COVID- 19 pandemic~~ . This has resulted in and may continue to result in delays in our ability to provide our services and complete our projects in a timely manner. In addition, some of the third parties we engage for our design, construction and operation projects operate internationally and our reliance on their products and services may be impacted by economic, political, and labor conditions in those regions as well as the uncertainty caused by the evolving relations between the United States and these regions, including China **and the Middle East** . If any of our subcontractors are unable to provide services that meet or exceed our customers' expectations or satisfy our contractual commitments, our reputation, business and operating results could be harmed. In addition, if we are unable to avail ourselves of warranty and other contractual protections with providers of products and services, we may incur liability to our customers or additional costs related to the affected products and components, which could have a material adverse effect on our business, financial condition, and operating results. Moreover, any delays, malfunctions, inefficiencies, or interruptions in these products or services could adversely affect the quality and performance of our solutions and require considerable expense to establish alternate sources for such products and services. This could cause us to experience difficulty retaining current customers and attracting new customers, and could harm our brand, reputation, growth, and operating results. We may have liability to our customers under our ESPCs if our projects fail to deliver the energy use reductions to which we are committed under the contract. For our energy efficiency projects, we typically enter into ESPCs under which we commit that the projects will satisfy agreed- upon performance standards appropriate to the project. These commitments are typically structured as guarantees of increased energy efficiency that are based on the design, capacity, efficiency, or operation of the specific equipment and systems we install. Our commitments generally fall into three categories: pre- agreed, equipment- level and whole building- level. Under a pre- agreed efficiency commitment, our customer reviews the project design in advance and agrees that, upon or shortly after completion of installation of the specified equipment comprising the project, the pre- agreed increase in energy efficiency will have been met. Under an equipment- level commitment, we commit to a level of increased energy efficiency based on the difference in use measured first with the existing equipment and then with the replacement equipment upon completion of installation. A whole building- level commitment requires future measurement and verification of increased energy efficiency for a whole building, often based on readings of the utility meter where usage is measured. Depending on the project, the measurement and verification may be required only once, upon installation, based on an analysis of one or more sample installations, or may be required to be repeated at agreed upon intervals generally over periods of up to 25 years. Under our contracts, we typically do not take responsibility for a wide variety of factors outside our control and exclude or adjust for such factors in commitment calculations. These factors include variations in energy prices and utility rates, weather, facility occupancy schedules, the amount of energy- using equipment in a facility, and failure of the customer to operate or maintain the project properly. We rely in part on warranties from our equipment suppliers and subcontractors to back- stop the warranties we provide to our customers and, where appropriate, pass on the warranties to our customers. However, the warranties we provide to our customers are sometimes broader in scope or longer in duration than the corresponding warranties we receive from our suppliers and subcontractors, and we bear the risk for any differences, as well as the risk of warranty default by our suppliers and subcontractors. Typically, our performance commitments apply to the aggregate overall performance of a project rather than to individual energy efficiency measures. Therefore, to the extent an individual measure underperforms, it may be offset by other measures that overperform during the same period. In the event that an energy efficiency project does not perform according to the agreed- upon specifications, our agreements typically allow us to satisfy our obligation by adjusting or modifying the installed equipment, installing additional measures to provide substitute energy savings, or paying the customer for lost energy savings based on the assumed conditions specified in the agreement. However, we may incur additional or increased liabilities or expenses under our ESPCs in the future. Such liabilities or expenses could be substantial, and they could materially harm our business, financial condition, or operating results. In addition, any disputes with a customer over the extent to which we bear responsibility to improve performance or make payments to the customer may diminish our prospects for future business from that customer or damage our reputation in the marketplace. We may assume responsibility under customer contracts for factors outside our control, including, in connection with some customer projects, the risk that fuel prices will increase. We typically do not take responsibility under our contracts for a wide variety of factors outside our control. We have, however, in a limited number of contracts assumed some level of risk and responsibility for certain factors — sometimes only to the extent that variations exceed specified thresholds — and may also do so under certain contracts in the future, particularly in our contracts for renewable energy projects. For example, under a contract for the construction and operation of a cogeneration facility at the U. S. Department of Energy Savannah River Site in South Carolina, a subsidiary of ours is exposed to the risk that the price of the biomass that will be used to fuel the cogeneration facility may rise during the **remainder of the** 19- year performance period of the contract. Several provisions in that contract mitigate the price risk. In addition, although we typically structure our contracts so that our obligation to supply a customer with biogas, electricity or steam, for example, does not exceed the quantity produced by the production facility, in some circumstances we commit to supply a customer with specified minimum quantities based on our projections of the facility' s production capacity. In such circumstances, if we are unable to meet such commitments, we may be required to incur additional costs or face penalties. Despite the steps we have taken to mitigate risks under these and other contracts, such steps may not be sufficient to avoid the need to incur increased costs to satisfy our commitments, and such costs could be material. Increased costs that we are unable to pass through to our customers could have a material adverse effect on our operating results. Our business depends on experienced and skilled personnel and substantial specialty subcontractor resources, and if we lose key personnel or if we are unable to attract and integrate additional skilled personnel, it will be more difficult for us to manage our business and complete projects. The success of our business and construction projects depends in large part on the skill of our personnel and on trade labor resources, including with certain specialty subcontractor skills. Competition for personnel, particularly those with expertise in the energy services and renewable energy industries, is high and may intensify with the IRA driving more demand for clean energy product and service offerings and as such demand for skilled personnel in the industry. In the event we are unable to attract, hire and retain the requisite personnel and subcontractors, we may experience delays in completing projects in accordance with project schedules and budgets. Further, any increase in demand for personnel and specialty subcontractors may result in higher costs, causing us to exceed the budget on a project. Either of these circumstances may have an adverse effect on our business, financial condition, and operating results, harm our reputation among and relationships with our customers and cause us to curtail our pursuit of new projects. Our future success is particularly dependent on the vision, skills, experience, and effort of our senior management team, including our executive officers and our founder, principal stockholder, president, and chief executive officer, George P. Sakellaris. If we were to lose the services of any of our executive officers or key employees, our ability to effectively manage our operations and implement our strategy could be harmed and our business may suffer. We have been and may continue to be impacted by macroeconomic conditions such as supply chain challenges, a shortfall of certain products needed for our business, and inflationary pressures. Global trade **challenges including supply chain delays** ~~conditions that originated during the COVID- 19 pandemic~~ continue to persist and have been exacerbated by ~~the~~ **global unrest and** ~~war~~ **wars** ~~in Ukraine~~. These conditions may ~~also~~ have long- lasting adverse impact on us and our industries ~~independently of the progress of the pandemic. For example, pandemic- related issues have exacerbated port congestion and intermittent supplier shutdowns and delays, resulting in additional expenses to expedite delivery of critical equipment~~. These conditions, combined with an increased demand for certain products needed for our business, such as lithium- ion battery cells and solar panels has created a shortfall of and increased costs for these products **and** ~~, which~~ has caused challenges and delays in our projects and may impact the profitability of our projects. We cannot predict the duration ~~or direction~~ of ~~current~~ **these** global ~~trends~~ **challenges** or their ~~sustained~~ impact **on** ~~or how the COVID- 19 pandemic may evolve and impact~~ our business. If we experience unfavorable global market conditions, our business, prospects, financial condition, and operating results may be harmed. For example, we are dependent on the continued supply of lithium- ion battery cells for our energy storage products, and we will require substantially more cells to grow our battery storage business based on our current plans. Currently, we rely on limited number of suppliers for these cells. Any disruption in the supply of battery cells from our suppliers could limit our growth for projects involving battery energy storage. In addition, the cost and mass production of battery cells, depends in part upon the prices and availability of raw materials such as lithium, nickel, cobalt and / or other metals. The prices for these materials fluctuate and their available supply may be unstable, depending on market conditions, regulation and global demand for these materials. As a result of increased global production of energy storage products and electric vehicles, suppliers of these raw materials may be unable to meet our volume or timing needs. Any reduced availability of these materials may adversely impact our access to battery cells and our growth, and any increases in their prices may reduce our profitability if we cannot recoup such costs in our project pricing. Moreover, our inability to meet demand may harm our brand, growth, prospects and operating results **. Extreme weather events and other natural disasters, particularly those exacerbated by climate change, could materially affect our ability to complete our projects and develop our assets. Extreme weather- related incidents and other natural disasters, including wildfires, mudslides, hurricanes, and other storms, can interfere with our ability to complete our projects and develop our assets. Furthermore, such events can impact the operation of assets we own or have provided energy and other performance commitments for. These risks are increasing, as climate change has exacerbated some of the conditions that lead to these extreme weather events and natural disasters. Such an event can result in lost revenue and increased expense thereby having a negative effect on our financial condition and business operations** . A failure of our information technology (" IT ") and data security infrastructure or cyber or other security incidents, vulnerabilities or other deficiencies, could adversely impact our business, reputation or results of operation or could cause us to default under our contractual obligations. We rely upon the capacity, reliability, and security of our IT and data security infrastructure and our ability to expand and continually update this infrastructure in response to the changing needs of our business. Our existing systems or any new ones we implement may not perform as expected face the challenge of supporting our older systems and implementing necessary upgrades. If we experience a problem with the functioning or a security breach of our IT systems, the resulting disruptions could have an adverse effect on our business. We receive and store personal information in connection with our human resources operations and other aspects of our business. Despite our implementation of security measures, our IT systems are vulnerable to damages from computer viruses, natural disasters, unauthorized access, cyber- attacks, and other similar disruptions, and we have experienced such incidents in the past. Any system failure, accident, or security breach could result in disruptions to our operations. A material network breach in the security of our IT systems could include the theft of our intellectual property, trade secrets, customer information, human resources information, or other confidential matter. We have been subject to and may in the future experience cybersecurity threats, including advanced and persistent cyberattacks, phishing and social engineering schemes, particularly on internet applications. Such cyber and other security threats could compromise the assets we own and operate or data in our systems. In addition, cybersecurity incidents at our vendors, customers and partners may have similar negative impact on our business operations. For example, we engage third- party vendors who receive and store personal and sensitive information in connection with our operations, including our human resources functions such as background checks. We do not have control over or access to the IT infrastructure of these vendors. Our vendors have and may in the future experience network breaches and other cyberattacks. In such instances, we ~~are~~ **may** not be able to fully investigate the incidents and may not be able to implement measures to defend such attacks. Furthermore, third- party vendors may not notify us of such incidents timely or at all, making it more difficult for us to identify and mitigate cybersecurity risks. Although we devote resources to our cybersecurity programs and have implemented security measures to protect our assets, systems and data, there can be no assurance that our efforts will prevent these threats. Because the techniques used to obtain unauthorized access, to disable or degrade systems, and to generate **cyberattacks** ~~cyber attacks~~ change frequently, have become increasingly more sophisticated, and may be difficult to detect for periods of time, we may not anticipate these acts or respond adequately or timely. As these threats continue to evolve and increase, we may be required to devote significant additional resources in order to protect against these attacks and to identify and remediate any security vulnerabilities. To the extent that any attacks, disruptions or security breach results in a loss or damage to our data, or an inappropriate disclosure of information, or adversely impact the assets we own or operate, it could cause significant damage to our reputation, affect our relationships with our customers and employees, lead to claims against us and ultimately harm our business and operating results. If we cannot obtain surety bonds and letters of credit, our ability to operate may be restricted. Federal and state laws require us to secure the performance of certain long- term obligations through surety bonds and letters of credit. In addition, we are occasionally required to provide bid bonds or performance bonds to secure our performance under energy efficiency contracts. In the future, we may have difficulty procuring or maintaining surety bonds or letters of credit, and obtaining them may become more expensive, require us to post cash collateral or otherwise involve unfavorable terms. Because we are sometimes required to have performance bonds or letters of credit in place before projects can commence or continue, our failure to obtain or maintain those bonds and letters of credit would adversely affect our ability to begin and complete projects, and thus could have a material adverse effect on our business, financial condition and operating results. We operate in a highly competitive industry, and our current or future competitors may be able to compete more effectively than we do, which could have a material adverse effect on our business, revenues, growth rates, and market share. Our industry is highly competitive, with many companies of varying size and business models, many of which have their own proprietary technologies, competing for the same business as we do. Many of our competitors have longer operating histories and greater resources than us and could focus their substantial financial resources to develop a competitive advantage, others may be smaller and able to adapt to the constantly changing demand of the market more quickly. The passage of the IRA and the opportunities it brings could intensify competition in our industry. Our competitors may also offer energy solutions at prices below cost, devote significant sales forces to competing with us or attempt to recruit our key personnel by increasing compensation, any of which could improve their competitive positions. Any of these competitive factors could make it more difficult for us to attract and retain customers, cause us to lower our prices in order to compete, and reduce our market share and revenues, any of which could have a material adverse effect on our financial condition and operating results. We can provide no assurance that we will continue to effectively compete against our current competitors or additional companies that may enter our markets. In addition, we may also face competition based on technological developments that reduce demand for electricity, increase power supplies through existing infrastructure or otherwise compete with our products and services. We also encounter competition in the form of potential customers electing to develop solutions or perform services internally rather than engaging an outside provider such as us. Our small- scale renewable energy plants may not generate expected levels of output. The small- scale renewable energy plants that we construct and own are subject to various operating risks that may cause them to generate less than expected amounts of processed biogas, electricity, or thermal energy. These risks include a failure or degradation of our, our customers' or utilities' equipment; an inability to find suitable replacement equipment or parts; less than expected supply of the plant' s source of renewable energy, downtime to our plants ~~based~~ such as biogas or biomass; or a faster than expected diminishment of such supply. For example, in 2022 we had to undertake some unscheduled maintenance at some of our RNG plants impacting the energy output from such plants. Any extended interruption in the plant' s operation, or failure of the plant for any reason to generate the expected amount of output, could have a material adverse effect on our business and operating results. In addition, we have in the past ~~,~~ and , could in the future, incur material asset impairment charges if any of our renewable energy plants incur operational issues that indicate that our expected future cash flows from the plant are less than its carrying value. Any such impairment charge could have a material adverse effect on our operating results in the period in which the charge is recorded. We have not entered into long- term offtake agreements for a portion of the output from our small- scale renewable energy plants and a portion of the related renewable identification numbers (" RINs ") are not subject to long term contracts. We have not entered into long- term offtake agreements for a portion of the output from our small- scale renewable energy plants, particularly RNG and non- RNG plants, and we may sell portions of the processed RNG, medium- BTU gas or electricity produced by the facility at wholesale prices, which are exposed to market fluctuations and risks. Similarly, we have not entered into long- term agreements with respect to the RINs for which the production and sale of such biofuel may qualify. The failure to sell such processed RNG, medium- BTU gas, electricity, or the related RINs at a favorable price, or at all could have a material adverse effect on our business and operating results. We may not be able to replace expiring offtake agreements with contracts on similar terms. If we are unable to replace an expired offtake agreement with an acceptable new contract, we may be required to remove the small- scale renewable energy plant from the site or, alternatively, we may sell the assets to the customer. We may not be able to replace an expiring offtake agreement with a contract on equivalent terms and conditions, including at prices that permit operation of the related facility on a profitable basis. If we are unable to replace an expiring offtake agreement with an acceptable new revenue contract, the affected site may temporarily or permanently cease operations , or we may be required to sell the power produced by the facility at wholesale prices which are exposed to market fluctuations and risks. In the case of a solar photovoltaic installation that ceases operations, the offtake agreement terms generally require that we remove the assets, including fixing or reimbursing the site owner for any damages caused by the assets or the removal of such assets. Alternatively, we may agree to sell the assets to the site owner, but the terms and conditions, including price, that we would receive in any sale, and the sale price may not be sufficient to replace the revenue previously generated by the small- scale renewable energy plant. Operation of energy assets involves significant risks and hazards customary to the energy industry and may be further impacted by the effects of climate change. We may not have adequate insurance to cover these risks and hazards, or other risks beyond our control. Hazards such as fire, explosion, structural collapse and machinery failure are inherent risks in our operations. These and other hazards can cause significant personal injury or loss of life, severe damage to and destruction of property, plant and equipment and contamination of, or damage to, the environment. The occurrence of any one of these events may result in curtailment of our operations or liability to third parties for damages, environmental cleanup costs, personal injury, property damage and fines and / or penalties, any of which could be substantial. Strategic targets, such as energy- related facilities, may also be at greater risk of hostile cyber intrusions or other security attacks, including those targeting information systems as well as electronic control systems. Such events could severely disrupt business operations and result in loss of service to customers, as well as create significant expense to repair security breaches or system damage. Furthermore, certain of our facilities, projects and suppliers are located in or operate operations in locations that are susceptible to natural disasters. The frequency of weather- related natural disasters may be increasing due to climate change. The occurrence of a natural disaster, such as tornados, earthquakes, droughts, floods, wildfires or localized extended outages of critical utilities or transportation systems, or any critical resource shortages, affecting us could cause a significant interruption in our business or damage or destroy our facilities. While we maintain insurance to protect against these and other risks, some of these events may be excluded from insurance coverage or our coverage may not be sufficient against all hazards or liabilities to which we may be subject. Insurance may also not continue to be available at all or at rates or on terms similar to those presently available. Any losses not covered by insurance could have a material adverse effect on our business, financial condition, results of operations and cash flows. We plan to expand our business in part through future acquisitions and joint ventures, but we may not be able to identify or complete suitable acquisitions. Historically, acquisitions have been a significant part of our growth strategy. We plan to continue to use acquisitions of companies or assets and co- investments with third parties using joint ventures to expand our project skill- sets and capabilities, expand our geographic markets, add experienced management, increase our product and service offerings and add to our energy producing asset portfolio. However, we may be unable to implement this growth strategy if we cannot identify suitable acquisition or joint venture candidates or partners, reach agreement with targets on acceptable terms or arrange required financing for acquisitions or joint ventures on acceptable terms. In addition, the time and effort involved in identifying acquisition or joint venture candidates and consummate transactions may divert the attention and efforts of members of our management from the operations of our company. We may be required to write- off or impair capitalized costs or intangible assets in the future, or we may incur restructuring costs or other charges, each of which could harm our earnings. In accordance with generally accepted accounting principles in the United States, we capitalize certain expenditures and advances relating to our **new** acquisitions, pending acquisitions, project development costs, interest costs related to project financing and certain energy assets. In addition, we have considerable unamortized assets. From time to time in future periods, we may be required to incur a charge against earnings in an amount equal to any unamortized capitalized expenditures and advances, net of any portion thereof that we estimate will be recoverable, through sale or otherwise, relating to: (i) any operation or other asset that is being sold, permanently shut down, impaired or has not generated or is not expected to generate sufficient cash flow; (ii) any pending acquisition that is not consummated; (iii) any project that is not expected to be successfully completed; and (iv) any goodwill or other intangible assets that are determined to be impaired. In response to such charges and costs and other market factors, we may be required to implement restructuring plans in an effort to reduce the size and cost of our operations and to better match our resources with our market opportunities. As a result of such actions, we would expect to incur restructuring expenses and accounting charges which may be material. Several factors could cause a restructuring to adversely affect our business, financial condition, and results of operations. These include potential disruption of our operations, the development of our small- scale renewable energy projects and other aspects of our business. Employee morale and productivity could also suffer and result in unintended employee attrition. Any restructuring would require substantial management time and attention and may divert management from other important work. Moreover, we could encounter delays in executing any restructuring plans, which could cause further disruption and additional unanticipated expense. See also Note 2, " Summary of Significant Accounting Policies " and Note 5, " Goodwill and Intangible Assets, Net ", to our consolidated financial statements appearing in Item 8 of this Report. Any future acquisitions that we may make could disrupt our business, cause dilution to our stockholders and harm our business, financial condition or operating results, and our use of joint ventures could expose us to additional risks and liabilities. If we are successful in consummating acquisitions, those acquisitions could subject us to a number of risks, including: • the purchase price we pay could significantly deplete our cash reserves or result in dilution to our existing stockholders, • we may find that the acquired company or assets do not improve our customer offerings or market position as planned, • we may have difficulty integrating the operations and personnel of the acquired company, • key personnel and customers of the acquired company may terminate their relationships with the acquired company as a result of the acquisition, • we may experience additional financial and accounting challenges and complexities in areas such as tax planning and financial reporting, • we may incur additional costs and expenses related to complying with additional laws, rules or regulations in new jurisdictions, • we may assume or be held liable for risks and liabilities (including for environmental- related costs) as a result of our acquisitions, some of which we may not discover during our due diligence or adequately adjust for in our acquisition arrangements, • our ongoing business and management' s attention may be disrupted or diverted by transition or integration issues and the complexity of managing geographically or culturally diverse enterprises, • we may incur one- time write- offs or restructuring charges in connection with the acquisition, • we may acquire goodwill and other intangible assets that are subject to amortization or impairment tests, which could result in future charges to earnings, and • we may not be able to realize the cost savings or other financial benefits we anticipated. We own, and in the future may acquire or establish, operating or development projects in joint ventures. Joint ventures inherently involve a lesser degree of control over business operations. Our joint venture partners may have economic and business interests that are inconsistent with ours, we may lack sole decision- making authority, and disputes between us and our joint venture partners could subject us to delays, litigation and increased expenses. Some of our joint venture projects may be capital intensive and if our joint venture partner does not contribute capital they are required to, this could result in delays in our development projects and increased our capital expenditures. These factors could have a material adverse effect on our business, financial condition, and operating results. International expansion is one of our growth strategies, and international operations will expose us to additional risks that we do not face in the United States, which could have an adverse effect on our operating results. We generate a portion of our revenues from operations outside of the United States, mainly in Canada and **Europe** ~~the United Kingdom~~. International expansion is one of our growth strategies, and we expect our revenues and operations outside of the United States will expand in the future. These operations will be subject to a variety of risks that we do not face in the United States, and that we may face only to a limited degree in Canada and **Europe** ~~the United Kingdom~~, including: • building and managing a highly experienced foreign workforce and overseeing and ensuring the performance of foreign subcontractors, • increased travel, infrastructure and legal and compliance costs associated with multiple international locations, • additional withholding taxes or other taxes on our foreign income, and tariffs or other restrictions on foreign trade or investment, • imposition of, or unexpected adverse changes in, foreign laws or regulatory requirements, many of which differ from those in the United States, • increased exposure to foreign currency exchange rate risk, • longer payment cycles for sales in some foreign countries and potential difficulties in enforcing contracts and collecting accounts receivable, • difficulties in repatriating overseas earnings, • international and regional economic, political and labor conditions in the countries in which we operate ~~, including the uncertainty caused by the evolving relations between the United States and China, and other geopolitical tensions~~ ; and • political unrest, war, incidents of terrorism, pandemics, or responses to such events ~~, including fluctuations in the severity and duration of the COVID- 19 pandemic and resulting restrictions on business activity which may vary significantly by region~~ . Our overall success in international markets will depend, in part, on our ability to succeed in differing legal, regulatory, economic, social, and political conditions. We may not be successful in developing and implementing policies and strategies that will be effective in managing these risks in each country where we do business. Our failure to manage these risks successfully could harm our international operations, reduce our international sales, and increase our costs, thus adversely affecting our business, financial condition and operating results. Some of our third- party business partners have international operations and are also subject to these risks and if our third- party business partners are unable to appropriately manage these risks, our business may be harmed. Risks related to Regulations or Governmental Actions Our business depends in part on federal, state, provincial and local government support for energy efficiency and renewable energy, and a decline in such support or the imposition of additional taxes, tariffs, duties, or other assessments on renewable energy or the equipment necessary to generate or deliver it, could harm our business. We depend in part on legislation and government policies that support energy efficiency and renewable energy projects that enhance the economic feasibility of our energy efficiency services and small- scale renewable energy projects. This support includes legislation and regulations that authorize and regulate the manner in which certain governmental entities do business with us; encourage or subsidize governmental procurement of our services; encourage or in some cases require other customers to procure power from renewable or low- emission sources, to reduce their electricity use or otherwise to procure our services; and provide us with tax and other incentives that reduce our costs or increase our revenues. In addition, the U. S. government generally has not taken action to materially burden the international supply chain, which has been important to the development of renewable energy facilities at acceptable prices. Any reductions or modifications to, or the elimination of, governmental incentives or policies that support renewable energy or the imposition of additional taxes, tariffs, duties or other assessments on renewable energy or the equipment necessary to generate or deliver it, could result in, among other things, the lack of a satisfactory market for the development and / or financing of renewable energy projects, or adversely impact our ability to complete projects for existing customers and obtain project commitments from new customers. **If the U. S. Supreme Court restricts federal agencies' ability to interpret vague or broad legislation this could also negatively impact the market for the projects and services we provide and our ability to finance them.** For example, ~~antidumping~~ **recent guidance issued by the Treasury Department** and ~~countervailing duty rates~~ **the IRS specified certain types of RNG equipment that is ineligible for the ITC** could ~~be put in place~~ **negatively impact the profitability of our RNG business and our ability to finance our RNG projects. Additionally, import duties or other import restrictions could restrict the global supply of, and raise prices for, supplies needed for our business, such** as ~~a result~~ **polysilicon and solar products, batteries, and semiconductors. Such duties or restrictions could increase the overall cost** of **our product offerings and reduce our ability to offer competitive pricing in certain markets. For example, in August 2023,** the U. S. Department of Commerce ~~' s investigation into an antidumping and countervailing duties circumvention claim~~ **issued a final ruling in the Auxin Solar trade case that will lead to higher tariffs** on **certain imported** solar **products** ~~cells and panels supplied~~ from Malaysia, Vietnam, Thailand **,** and Cambodia ~~and~~ **beginning in June 2024. Similarly,** ~~the~~ **other changes in** trade **regulations or** ~~restrictions imposed by~~ the **enforcement of** ~~US government on Chinese entities determined to be acting contrary to U. S. foreign policy and national security interests, including~~ the Uyghur Forced Labor Prevention Act ~~, which, with limited exception, prohibits the importation of all goods or articles mined or produced in whole or in part in the Xinjiang Uyghur Autonomous Region~~ could increase ~~the overall cost of our~~ **demand and thereby increase prices for compliant** ~~product~~ **products needed for project development** ~~offerings and reduce our ability to offer competitive pricing in certain markets~~ . **Failure** ~~Although we maintain policies and procedures~~ to **comply** ~~maintain compliance~~ with ~~all governmental laws and regulations, these and other similar~~ trade restrictions **and** ~~that may be imposed against Chinese entities in the~~ **other** ~~future may~~ **governmental restrictions could subject us to fines and penalties. This could** have **a negative impact on** ~~the effect of restricting the global supply of, and raising prices for supplies needed for~~ our business ~~, such as polysilicon~~ and **results of operation** ~~solar products, batteries, and semiconductors~~ . Due to the uncertainty in the regulatory and legislative processes, we cannot determine the effect any such legislation and regulation may have on our products and operations. A substantial portion of our earnings are derived from the sale of renewable energy certificates (" RECs ") and other environmental attributes, and our failure to be able to sell such attributes could materially adversely affect our business, financial condition and results of operation. A substantial portion of our earnings are attributable to our sale of renewable energy certificates (" RECs ") and other environmental attributes generated by our energy assets. These attributes are used as compliance purposes for state- specific or U. S. federal policy. We own and operate solar PV installations which derive a significant portion of their revenues from the sale of solar renewable energy certificates (" SRECs "), which are produced as a result of generating electricity. The value of these SRECs is determined by the supply and demand of SRECs in the states in which the solar PV installations are installed. Supply is driven by the ~~amount~~ **number** of installations and demand is driven by state- specific laws relating to renewable portfolio standards. We also own and operate renewable natural gas plants that may deliver biofuels into to the nation' s natural gas pipeline grid. Such biofuel may qualify for certain environmental attribute mechanisms, such as RINs which are used for compliance purposes under the Renewable Fuel Standard (" RFS ") program. The RFS is a U. S. federal policy that requires transportation fuel to contain a minimum volume of renewable fuel. The U. S. Environmental Protection Agency (" EPA ") administers the RFS program and may periodically undertake regulatory action involving the RFS, including annual volume standards for renewable fuel. Some of our biofuel may also qualify for various state incentives, such as the Low Carbon Fuel Standard (" LCFS "), the pricing or availability of which may fluctuate. We sometimes seek to sell forward a portion of our SRECs and other environmental attributes under contracts to fix the revenues from those attributes for financing purposes or hedge against future declines in prices of such environmental attributes. If our renewable energy facilities do not generate the amount of renewable energy attributes sold under such forward contracts or if for any reason the renewable energy we generate does not produce SRECs or other environmental attributes for a particular state, we may be required to make up the shortfall of SRECs or other environmental attributes under such forward contracts through purchases on the open market or make payments of liquidated damages. RECs are created through state law requirements for utilities to purchase a portion of their energy from renewable energy sources and changes in state laws or regulation relating to RECs may adversely affect the availability of RECs or other environmental attributes and the future prices for RECs or other environmental attributes, which could have an adverse effect on our business, financial condition, and results of operations. We may have exposure to additional tax liabilities and our effective tax rate may increase or fluctuate, which could increase our income tax expense and reduce our net income and we may not be able to utilize the full value of tax credits and incentives available under the IRA or may become subject to penalties if we fail to meet requirements for these credits and incentives. This may have an adverse effect on our business and operating results. Our provision for income taxes is subject to volatility and could be adversely affected by changes in tax laws or regulations, particularly changes in tax incentives in support of energy efficiency. The IRA ~~, which is effective for years after January 1, 2023,~~ contains extended and expanded clean energy tax credits such as the Investment Tax Credit (" ITC "), the Production Tax Credit (" PTC "), and created other financial incentives designed to promote the development of certain domestic clean energy projects. In order to receive the full value of such credits and incentives, our projects must satisfy a number of requirements including prevailing wage and apprenticeship requirements. If we fail to comply with these requirements, the value of the credits may be limited, and we may become subject to financial penalties. ~~Furthermore, until~~ **Uncertainty remains under** the **IRA** ~~Treasury Department and IRS issues additional guidance~~ on which types of projects are eligible for the tax credits and incentives and how projects can demonstrate compliance with the requirements, we may not receive full value of the tax credits and incentives, which could increase our income tax expense, reduce our net income and **adversely** impact the profitability of **our projects or our ability to finance** our projects. There is also uncertainly if IRA incentives may be ~~cut back~~ **reduced or repealed** in the future **, especially following the 2024 elections** . In addition, the timing of when assets are placed in service has in the past and could in the future impact our tax rate. If we experience unexpected delays in this timing, we may not be able to take advantage of the ITC as expected. If we are not able to utilize the ITC as expected this could have an adverse effect of our financial results. Our tax rate has historically been significantly impacted by the IRC Section 179D deduction. This deduction is related to energy efficient improvements we provide under government contracts. The Consolidated Appropriations Act, 2021 made permanent the Section 179D Energy Efficient Commercial Building Deduction. That Act, along with the IRA, also made changes to the way the deduction is calculated. If those changes or clarifying guidance issued by the IRS result in lower levels of energy efficiency improvements, it could impact the deduction available and the tax rate. In addition, like other companies, we may be subject to examination of our income tax returns by the U. S. Internal Revenue Service and other tax authorities; our U. S. federal tax returns for ~~2019~~ **2020** through ~~2022~~ **2023** are subject to audit by federal, state, and foreign tax authorities. Though we regularly assess the likelihood of adverse outcomes from such examinations and the adequacy of our provision for income taxes and tax reserves, there can be no assurance that such provision is sufficient and that a determination by a tax authority will not have an adverse effect on our net income **. Furthermore, the Organization for Economic Cooperation and Development (OECD) Inclusive Framework of 137 jurisdictions have joined a two- pillar plan to reform international taxation rules. The first pillar is focused on the allocation of taxing rights between countries for in- scope multinational enterprises that sell goods and services into countries with little or no local physical presence and is intended to apply to multinational enterprises with global turnover above 20 billion euros. The second pillar is focused on developing a global minimum tax rate of at least 15 percent applicable to in- scope multinational enterprises and is intended to apply to multinational enterprises with annual consolidated group revenue in excess of 750 million euro. While substantial work remains to be completed by the OECD and national governments on the implementation of these proposals, future tax reform resulting from these developments may result in changes to long- standing tax principles, which could adversely affect our effective tax rate or result in higher cash tax liabilities** . Changes in the laws and regulations governing the public procurement of ESPCs could have a material impact on our business. We derive a significant amount of our revenue from ESPCs with our government customers. While federal, state and local government rules governing such contracts vary, such rules may, for example, permit the funding of such projects through long- term financing arrangements; permit long- term payback periods from the savings realized through such contracts; allow units of government to exclude debt related to such projects from the calculation of their statutory debt limitation; allow for award of contracts on a " best value " instead of " lowest cost " basis; and allow for the use of sole source providers. To the extent these rules become more restrictive in the future, our business could be harmed. We need governmental approvals and permits, and we typically must meet specified qualifications, in order to undertake our energy efficiency projects and construct, own and operate our small- scale renewable energy projects, and any failure to do so would harm our business. The design, construction, and operation of our energy efficiency and small- scale renewable energy projects require various governmental approvals and permits and may be subject to the imposition of related conditions that vary by jurisdiction. In some cases, these approvals and permits require periodic renewal. We cannot predict whether all permits required for a given project will be granted or whether the conditions associated with the permits will be achievable. The denial of a permit essential to a project or the imposition of impractical conditions would impair our ability to develop the project. In addition, we cannot predict whether the permits will attract significant opposition or whether the permitting process will be lengthened due to complexities and appeals. ~~Delay in~~ **We have over** the ~~review and~~ **past few years experienced longer lead times in the** permitting process for ~~a project~~ **projects** ~~can~~ **and such delays have and may further** impair or delay our ability to develop ~~that project~~ **projects** ~~or~~ **. Delays could also** increase the cost so substantially that the ~~project~~ **projects** ~~is~~ **are** no longer attractive to us ~~. We have experienced delays in developing our projects due to delays in obtaining permits and may experience delays in the future~~ . If we were to commence construction in anticipation of obtaining the final, non- appealable permits needed for ~~that~~ **a** project, we would be subject to the risk of being unable to complete the project if all the permits were not obtained. If this were to occur, we would likely lose a significant portion of our investment in the project and could incur a loss as a result. Further, the continued operations of our projects require continuous compliance with permit conditions. This compliance may require capital ~~improvements~~ **commitments** or result in reduced operations. Any failure to procure, maintain and comply with necessary permits would adversely affect ongoing development, construction and continuing operation of our projects. In addition, the projects we perform for governmental agencies are governed by particular qualification and contracting regimes. Certain states require qualification with an appropriate state agency as a precondition to performing work or appearing as a qualified energy service provider for state, county, and local agencies within the state. For example, the Commonwealth of Massachusetts and the states of Colorado and Washington pre-qualify energy service providers and provide contract documents that serve as the starting point for negotiations with potential governmental clients. Most of the work that we perform for the federal government is performed under IDIQ agreements between a government agency and us or ~~a~~ **one of our** ~~subsidiary~~ **subsidiaries** . These IDIQ agreements allow us to contract with the relevant agencies to implement energy projects, but no work may be performed unless we and the agency agree on a task order or delivery order governing the provision of a specific project. The government agencies enter into contracts for specific projects on a competitive basis. We and our subsidiaries ~~and affiliates~~ are currently party to an IDIQ agreement with the U. S. Department of Energy expiring in ~~2026~~ **2028** . We are also party to similar agreements with other federal agencies, including the U. S. Army Corps of Engineers and the U. S. General Services Administration. If we are unable to maintain or renew our IDIQ qualification ~~under the U. S. Department of Energy program for ESPCs,~~ or similar federal or state qualification regimes, our business could be materially harmed. Many of our small- scale renewable energy projects are, and other future projects may be, subject to or affected by U. S. federal energy regulation or other regulations that govern the operation, ownership, and sale of the facility, or the sale of electricity from the facility. PUHCA and the FPA regulate public utility holding companies and their subsidiaries and place constraints on the conduct of their business. The FPA regulates wholesale sales of electricity and the transmission of electricity in interstate commerce by public utilities. Under PURPA, ~~all~~ **most** of our current small- scale renewable energy projects are small power " qualifying facilities " (facilities meeting statutory size, fuel, and filing requirements) that are exempt from regulations under PUHCA, most provisions of the FPA and state rate and financial regulation. ~~None~~ **Some** of our renewable energy projects **which are operating as exempt wholesale generators or operating under a special exemption from PUHCA** are currently subject to rate regulation for wholesale power sales by the Federal Energy Regulatory Commission (" FERC ") under the FPA ~~, but~~ **and must comply with** certain **FERC reporting requirements** ~~of our projects that are under construction or development could become subject to such regulation in the future~~ . Also, we may acquire interests in or develop **additional** generating projects that are not qualifying facilities. Non- qualifying facility projects would be fully subject to FERC corporate and rate regulation ~~,~~ and would be required to obtain FERC acceptance of their rate schedules for wholesale sales of energy, capacity, and ancillary services, which requires substantial disclosures to and discretionary approvals from FERC. FERC may revoke or revise an entity' s authorization to make wholesale sales at negotiated, or market- based, rates if FERC determines that we can exercise market power in transmission or generation, create barriers to entry or engage in abusive affiliate transactions or market manipulation. In addition, many public utilities (including any non- qualifying facility generator in which we may invest) are subject to FERC reporting requirements that impose administrative burdens and that, if violated, can expose the company to civil penalties or other risks. All of our wholesale electric power sales are subject to certain market behavior rules. These rules change from time to time, by virtue of FERC rulemaking proceedings and FERC- ordered amendments to utilities' or power pools' FERC tariffs. If we are deemed to have violated these rules, we will be subject to potential disgorgement of profits associated with the violation and / or suspension or revocation of our market- based rate authority, as well as potential criminal and civil penalties. If we were to lose market- based rate authority for any non- qualifying facility project we may acquire or develop in the future, we would be required to obtain FERC' s acceptance of a cost- based rate schedule and could become subject to, among other things, the burdensome accounting, record keeping and reporting requirements that are imposed on public utilities with cost- based rate schedules. This could have an adverse effect on the rates we charge for power from our projects and our cost of regulatory compliance. Wholesale electric power sales are subject to increasing regulation. The terms and conditions for power sales, and the right to enter and remain in the wholesale electric sector, are subject to FERC oversight. Due to major regulatory restructuring initiatives at the federal and state levels, the U. S. electric industry has undergone substantial changes over the past decade. We cannot predict the future design of wholesale power markets, or the ultimate effect ongoing regulatory changes will have on our business. Other proposals to further regulate the sector may be made and legislative or other attention to the electric power market restructuring process may delay or reverse the movement towards competitive markets. If we become subject to additional regulation under PUHCA, FPA, or other regulatory frameworks, if existing regulatory requirements become more onerous, or if other material changes to the regulation of the electric power markets take place, our business, financial condition, and operating results could be adversely affected. Changes in utility regulation and tariffs could adversely affect our business. Our business is affected by regulations and tariffs that govern the activities and rates of utilities. For example, utility companies are commonly allowed by regulatory authorities to charge fees to some business customers for disconnecting from the electric grid or for having the capacity to use power from the electric grid for back- up purposes. These fees could increase the cost to our customers of taking advantage of our services and make them less desirable, thereby harming our business, financial condition, and operating results. ~~Our~~ **Many of our** current generating projects are ~~all~~ operated as qualifying facilities. FERC regulations under the FPA confer upon these facilities **'** key rights to interconnection with local utilities and can entitle qualifying facilities to enter into power purchase agreements with local utilities, from which the qualifying facilities benefit. Changes to these federal laws and regulations could increase our regulatory burdens and costs and could reduce our revenues. State regulatory agencies could award renewable energy certificates or credits that our electric generation facilities produce to our power purchasers, thereby reducing the power sales revenues we otherwise would earn. In addition, modifications to the pricing policies of utilities could require renewable energy systems to charge lower prices in order to compete with the price of electricity from the electric grid and may reduce the economic attractiveness of certain energy efficiency measures. Some of the demand- reduction services we provide for utilities and institutional clients are subject to regulatory tariffs imposed under federal and state utility laws. In addition, the operation of, and electrical interconnection for, our renewable energy projects are subject to federal, state, or provincial interconnection and federal reliability standards that are also set forth in utility tariffs. These tariffs specify rules, business practices, and economic terms to which we are subject. The tariffs are drafted by the utilities and approved by the utilities' state and federal regulatory commissions. These tariffs change frequently, and it is possible that future changes will increase our administrative burden or adversely affect the terms and conditions under which we render service to our customers. Compliance with environmental laws could adversely affect our operating results. Costs of compliance with federal, state, provincial, local and other foreign existing and future environmental regulations could adversely affect our cash flow and profitability. We are required to comply with numerous environmental laws and regulations and to obtain numerous governmental permits in connection with energy efficiency and renewable energy projects. In addition, we may become subject to additional legislation and regulation regarding climate change, and we may incur significant additional costs to comply with existing and new requirements. If we fail to comply with these requirements, we could be subject to civil or criminal liability, damages, and fines. Existing environmental regulations could be revised or reinterpreted, and new laws and regulations could be adopted or become applicable to us or our projects, and future changes in environmental laws and regulations, including those intended to combat climate change, could occur. These factors may materially increase the amount we must invest to bring our projects into compliance and impose additional expense on our operations. In addition, private lawsuits or enforcement actions by federal, state, provincial, and / or foreign regulatory agencies may materially increase our costs. Certain environmental laws make us potentially liable on a joint and several basis for the remediation of contamination at or emanating from properties or facilities we currently or formerly owned or operated or properties to which we arranged for the disposal of hazardous substances. Such liability is not limited to the cleanup of contamination we actually caused. Although we seek to obtain indemnities against liabilities relating to historical contamination at the facilities we own or operate, we cannot provide any assurance that we will not incur liability relating to the remediation of contamination, including contamination we did not cause. We may not be able to obtain or maintain, from time to time, all required environmental regulatory approvals. A delay in obtaining any required environmental regulatory approvals or failure to obtain and comply with them could adversely affect our business and operating results. Our activities and operations are subject to numerous health and safety laws and regulations, and if we violate such regulations, we could face penalties and fines. We are subject to numerous health and safety laws and regulations in each of the jurisdictions in which we operate. These laws and regulations require us to obtain and maintain permits and approvals and implement health and safety programs and procedures to control risks associated with our projects. Compliance with those laws and regulations can require us to incur substantial costs. Moreover, if our compliance programs are not successful, we could be subject to penalties or to revocation of our permits, which may require us to curtail or cease operations of the affected projects. Violations of laws, regulations and permit requirements may also result in criminal sanctions or injunctions. Health and safety laws, regulations and permit requirements may change or become more stringent. Any such changes could require us to incur materially higher costs than we currently have. Our costs of complying with current and future health and safety laws, regulations and permit requirements, and any liabilities, fines or other sanctions resulting from violations of them, could adversely affect our business, financial condition, and operating results. We are subject to various privacy and consumer protection laws. Our privacy policy is posted on our website, and any failure by us or our vendor or other business partners to comply with it or with federal, state, or international privacy, data protection or security laws or regulations could result in regulatory or litigation- related actions against us, legal liability, fines, damages and other costs. We may also incur substantial expenses and costs in connection with maintaining compliance with such laws. Globally, laws such as the General Data Protection Regulation (" GDPR ") in Europe and new and emerging state laws in the United States on privacy, data, and related technologies, have created new compliance obligations and significantly increases fines for noncompliance. Although we take steps to protect the security of our customers' personal information, we may be required to expend significant resources to comply with data breach requirements if third parties improperly obtain and use the personal information of our customers or we otherwise experience a data loss with respect to customers' personal information. A major breach of our network security and systems could have negative consequences for our business and future prospects, including possible fines, penalties and damages, reduced customer demand for our services, and harm to our reputation and brand. Risks Related to our Indebtedness Our senior credit facility, ~~project~~ **energy asset** financing term loans and construction loans contain financial and operating restrictions that may limit our business activities and our access to credit **,** and they may not be sufficient to fund our capital needs and growth. Provisions in our senior credit facility and term loan, project financing term loans and construction loans impose customary restrictions on our and certain of our subsidiaries' business activities and uses of cash and other collateral. These agreements also contain other customary covenants, including covenants that require us to meet specified financial ratios and financial tests. We have a $ 200 million revolving senior secured credit facility and $ 75 million term loan that mature March 2025 as well as a $ 220 million delayed draw term loan that matures ~~September 4~~ **April 15** , ~~2023~~ **2024** (collectively, the " Senior Credit Facilities ") **. As of December 31** , **2023, the balance of our Senior Credit Facilities was $ 279. 9 million, $ 65. 0 million of** which **was outstanding under the delayed draw term loan. These Senior Credit Facilities may not be sufficient to meet our needs as our business grows, and we may be unable to extend or replace them on acceptable terms, or at all. The Senior Credit Facilities** are subject to ~~the~~ quarter end ratio ~~covenant~~ **covenants , including a maximum ratio of total funded debt to EBITDA and a debt service coverage ratio (each as defined in the agreement and** described ~~below~~ **in more detail in this Form 10- K)** as well as certain other customary operational covenants. ~~As of December 31, 2022, the balance of our Senior Credit Facilities were $ 477. 9 million. These Senior Credit Facilities may not be sufficient~~

~~to meet our needs as our business grows, and we may be unable to extend or replace them on acceptable terms, or at all. Under these facilities, we are required to maintain a maximum ratio of total funded debt to EBITDA (as defined in the agreement) of less than 4. 0 to 1. 0 as of December 31, 2022 and 3. 5 to 1. 0 beginning with the quarter ending March 31, 2023. We are also required to maintain a debt service coverage ratio (as defined in the agreements) of at least 1. 5 to 1. 0.~~ EBITDA for purposes of the facilities excludes the results of certain renewable energy projects that we own and ~~for~~ which **we finance in separate subsidiaries through project** financing ~~from others remains outstanding~~ and the results of our joint ventures. In addition, our project financing term loans and construction loans require us to comply with a variety of financial and operational covenants. **Our failure** ~~Although we do not consider it likely that we will fail~~ to comply with **the** ~~any material~~ covenants **under our project financing debt** ~~for~~ - **or our Senior Credit Facilities** ~~the next twelve months, we cannot assure that we will be able to do so. Our failure to comply with these covenants~~ may result in the declaration of an event of default and cause us to be unable to borrow under our Senior Credit Facilities. In addition to preventing additional borrowings under these facilities, an event of default, if not cured or waived, may result in the acceleration of the maturity of indebtedness outstanding under it or the applicable project financing term loan, which would require us to pay all amounts outstanding. If an event of default occurs **under our project financing debt or our Senior Credit Facilities** , we may not be able to cure it within any applicable cure period, if at all. Certain of our debt agreements, including our Senior Credit Facilities, also contain subjective acceleration clauses based on a lender deeming that a " material adverse change " in our business has occurred. If these clauses are implicated, and the lender declares that an event of default has occurred, the outstanding indebtedness would likely be immediately due and owing. If the maturity of our indebtedness is accelerated, we may not have sufficient funds available for repayment or we may not have the ability to borrow or obtain sufficient funds to replace the accelerated indebtedness on terms acceptable to us or at all. If our subsidiaries default on their obligations under their debt instruments, we may need to make payments to lenders **or** to prevent foreclosure on the collateral securing the debt. We typically set up subsidiaries to own and finance our renewable energy projects. These subsidiaries incur various types of debt which can be used to finance one or more projects. This debt is typically structured as non- recourse **or limited recourse** debt, which means it is repayable solely from the revenues from the projects financed by the debt and is secured by such projects' physical assets, major contracts and cash accounts and a pledge of our equity interests in the subsidiaries involved in the projects. Although our subsidiary debt is typically non- recourse to Ameresco, if a subsidiary of ours defaults on such obligations, or if one project ~~out of several~~ financed by a particular subsidiary' s indebtedness encounters difficulties or is terminated, then we may from time to time determine to provide financial support to the subsidiary in order to maintain rights to the project or otherwise avoid the adverse consequences of a default. In the event a subsidiary defaults on its indebtedness, its creditors may foreclose on the collateral securing the indebtedness, which may result in our losing our ownership interest in some or all of the subsidiary' s assets. **Furthermore, our $ 300 million construction and development loan, which we use to finance a number of our early stage development and construction projects, requires us, in the case of default under the facility, a default under our Senior Credit Facilities or a change in control of Ameresco, to make required capital contributions to the borrower entity who then would be required to use the proceeds from the capital contributions to repay the construction and development loan.** The loss of our ownership interest in a subsidiary or some or all of a subsidiary' s assets **or the requirement to make capital contributions under our construction and development loan** could have a material adverse effect on our business, financial condition and operating results. ~~The London interbank offered rate~~ **If we fail to comply with the obligation in our Senior Credit Facilities to use commercially reasonable efforts to raise a minimum of $ 100 million equity or subordinated debt financing, we could be in default under the Senor Credit Facilities or if the terms of such financing are not favorable to us our financial condition may be adversely impacted Our Senior Credit Facilities require us to use commercially reasonable efforts** (~~" LIBOR "~~ **assuming normal market conditions**) ~~calculation method under certain~~ **to raise a minimum** of **$ 100 million equity** ~~our~~ - **or subordinated debt** financing ~~arrangements may change as LIBOR is expected to~~ **by April 15, 2024. We are currently pursuing a subordinated debt financing but there are no assurances that we will** be **able to complete such** ~~phased out by June 2023. Certain of our project~~ financing ~~term loans permit or require interest~~ on **favorable terms or at all** ~~the outstanding principal balance to be calculated based on LIBOR~~ . ~~After June 30, 2023,~~ **If we fail to comply with** the ~~United Kingdom Financial Conduct Authority (the " FCA ") will~~ **obligation, our lenders could declare that an event of default has occurred and accelerate our indebtedness and we may** ~~no~~ **not have sufficient funds available** ~~longer require banks to submit rates~~ for **repayment** ~~the calculation of LIBOR. As a result, actions by the FCA, other regulators, or law enforcement agencies may result in changes to the method by which LIBOR is calculated. While we have transitioned our senior credit facilities and some of our other financing arrangements from LIBOR, we still have financing arrangement that utilize LIBOR, and we cannot predict the effect of the FCA or any other reforms to LIBOR that may be enacted in the United Kingdom or elsewhere~~ . Risks Related to Ownership of Our Class A Common Stock The trading price of our Class A common stock is volatile. The trading price of our Class A common stock is volatile and could be subject to wide fluctuations, some of which are beyond our control. During the year ended December 31, ~~2022~~ **2023** , our Class A common stock has traded at a low of $ **18.** 40 ~~. 73~~ and a high of $ **65.** 86 ~~. 73~~ . The stock market in general has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of publicly traded companies. If the stock market in general experiences a significant decline, the trading price of our Class A common stock could decline for reasons unrelated to our business, financial condition, or operating results. As a result of this volatility, you may not be able to sell your Class A common stock at or above the price you paid for it, and you may lose some or all of your investment. Additionally, although historically there has not been a large short position in our Class A common stock, securities of certain companies have recently experienced extreme and significant volatility as a result of a large aggregate short position driving up the stock price over a short period of time, which is known as a " short squeeze. " Furthermore, some companies that have had volatile market prices for their securities have had securities class actions filed against them. If a suit were filed against us, regardless of its merits or outcome, it would likely result in substantial costs and divert management' s attention and resources. This could have a material adverse effect on our business, operating results, and financial condition. Holders of our Class A common stock are entitled to one vote per share, and holders of our Class B common stock are entitled to five votes per share. The lower voting power of our Class A common stock may negatively affect the attractiveness of our Class A common stock to investors and, as a result, its market value. We have two classes of common stock: Class A common stock, which is listed on the NYSE **,** and which is entitled to one vote per share, and Class B common stock, which is not listed on any security exchange and is entitled to five votes per share. The difference in the voting power of our Class A and Class B common stock could diminish the market value of our Class A common stock because of the superior voting rights of our Class B common stock and the power those rights confer. For the foreseeable future, Mr. Sakellaris or his affiliates will be able to control the selection of all members of our board of directors, as well as virtually every other matter that requires stockholder approval, which will severely limit the ability of other stockholders to influence corporate matters. Except in certain limited circumstances required by applicable law, holders of Class A and Class B common stock vote together as a single class on all matters to be voted on by our stockholders. Mr. Sakellaris, our founder, principal stockholder, president, and chief executive officer, **and certain of his family members** ~~owns~~ - **own** all of our Class B common stock, which, together with ~~his~~ **their** Class A common stock, represents approximately 74 **. 5** % of the combined voting power of our outstanding Class A and Class B common stock. Under our restated certificate of incorporation, holders of shares of Class B common stock may generally transfer those shares to family members, including spouses and descendants or the spouses of such descendants, as well as to affiliated entities, without having the shares automatically convert into shares of Class A common stock. Therefore, Mr. Sakellaris, his affiliates, and his family members and descendants will, for the foreseeable future, be able to control the outcome of the voting on virtually all matters requiring stockholder approval, including the election of directors and significant corporate transactions such as an acquisition of our company, even if they come to own, in the aggregate, as little as 20 % of the economic interest of the outstanding shares of our Class A and Class B common stock. Moreover, these persons may take actions in their own interests that you or our other stockholders do not view as beneficial. Though we may repurchase shares of our Class A common stock pursuant to our share repurchase program, we are not obligated to do so and if we do, we may purchase only a limited number of shares of Class A common stock. In ~~May~~ 2016, we announced a stock repurchase program under which the Company is authorized to repurchase, in the aggregate, up to $ 17. 6 million of our ~~outstanding~~ Class A common stock. **We** ~~However, we~~ are not obligated to acquire any shares of our Class A common stock, and holders of our Class A common stock should not rely on the share repurchase program to increase their liquidity. **Our utilization** ~~The amount and timing~~ of ~~any~~ **the** share ~~repurchases~~ - **repurchase** ~~will~~ **program** ~~depend~~ **depends** upon a variety of factors, including the trading price of our Class A common stock, liquidity, securities laws restrictions, **tax and** other regulatory restrictions, ~~potential~~ alternative uses of capital, and market and economic conditions. Any stock repurchase would be through open market transactions or in privately negotiated transactions, in accordance with applicable securities laws and regulatory limitations. We may reduce or eliminate our share repurchase program in the future. The reduction or elimination of our share repurchase program, particularly if we do not repurchase the full number of shares authorized under the program, could adversely affect the market price of our common stock.