

TOT Energy
Form DEF 14C
February 11, 2009

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

SCHEDULE 14C

Information Statement Pursuant to Section 14(c)
of the Securities Exchange Act of 1934

Check the appropriate box:

- Preliminary Information Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14c-5(d)(2))
- Definitive Information Statement

TOT ENERGY, INC.
(Name of Registrant As Specified In Its Charter)

Payment of Filing Fee (Check the Appropriate Box):

- No fee required
- Fee computed on table below per Exchange Act Rules 14c-5(g) and 0-11

1. Title of each class of securities to which transaction applies:

 2. Aggregate number of securities to which transaction applies:

 3. Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
-

4. Proposed maximum aggregate value of transaction:

5. Total fee paid:

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1. Amount previously paid:

2. Form, Schedule or

Registration Statement No.:

3. Filing Party:

4. Date Filed:

TOT ENERGY, INC.
19950 W. Country Club Drive; 8th Floor
Aventura, Florida 33180

NOTICE OF ACTION TO BE TAKEN BY CONSENT
OF STOCKHOLDERS

February 8, 2009

Dear Stockholder:

On December 23, 2008 the Board of Directors of TOT ENERGY, INC. (“TOT Energy” or the “Company”) adopted a resolution recommending the Company amend its Certificate of Incorporation to increase the number of authorized shares of the Company’s capital stock. The Company’s majority stockholder has approved the proposed amendment to the Company’s Certificate of Incorporation through action taken by consent and without a meeting, as authorized by Section 228 of the Delaware General Corporation Law. The actions recommended by the Board of Directors and approved by the Company’s majority stockholder pursuant to Section 228 of the Delaware General Corporation Law will become effective no earlier than 20 calendar days after this Information Statement is sent or given to all persons who were holders of record of the Company’s common stock on December 31, 2008.

A copy of the Certificate of Amendment which has been recommended by the Company’s Board of Directors is attached to this Information Statement.

We are not asking you for a proxy, nor are we asking you to respond to this notice in any other way. The purpose of this notice is only to provide you with information regarding the actions which have been approved by our Board of Directors and our majority stockholder.

Sincerely,

By: /S/ MIKE ZOI

Mike Zoi
Chief Executive Officer

INFORMATION STATEMENT
ACTION TAKEN BY CONSENT OF STOCKHOLDERS
OF TOT ENERGY, INC.

This information statement (this "Information Statement") is furnished to the holders of the common stock, \$.001 par value, of TOT Energy, Inc., (the "Company") on behalf of the Company in connection with the approval to increase the number of authorized shares of the Company's capital stock. This action has been recommended by the Company's Board of Directors and approved by the Company's majority stockholder, TGR Energy, LLC (the "Consenting Stockholder"), pursuant to and in accordance with the provisions of the Delaware General Corporation Law. This action will become effective on the date that is 20 calendar days after this Information Statement is sent or given to all persons who were holders of record of the Company's common stock on December 31, 2008 (the "Record Date"). This Information Statement is first being mailed to stockholders on or about February 8, 2008.

The Company's principal executive offices are located at 19950 W. Country Club Drive; 8th Floor, Aventura, FL 33180

THE PURPOSE OF THIS INFORMATION STATEMENT IS TO PROVIDE YOU WITH NOTICE OF THE ACTIONS WHICH HAVE BEEN APPROVED. WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY.

AMENDMENT OF THE CERTIFICATE OF INCORPORATION TO INCREASE THE AUTHORIZED SHARES OF COMMON STOCK

The Board of Directors has unanimously adopted and the Consenting Stockholder has approved an amendment to the Certificate of Incorporation of the Company to increase the total number of shares of common stock which the Company has the authority to issue from 400,000,000 shares to 800,000,000 shares. The authorized shares of preferred stock will not be affected and will remain at 100,000,000 shares. The text of the amendment is contained in the Articles of Amendment to Certificate of Incorporation attached as Appendix A to this Information Statement and incorporated herein by reference.

The Board of Directors has deemed it advisable and in the best interests of the Company to amend Article IV of the Certificate of Incorporation to increase the authorized number of shares of capital stock to an aggregate of 900,000,000 shares with 800,000,000 shares designated common stock, \$.001 par value, and 100,000,000 shares designated preferred stock, \$.001 par value. The purpose of such increase is to place the Company in a position where it will continue to have a sufficient number of shares of authorized and unissued Common Stock which can be issued for or in connection with such corporate purposes as may, from time to time, be considered advisable by the Board of Directors. Having such shares available for issuance in the future will give the Company greater flexibility and will allow such shares to be issued as determined by the Board of Directors of the Company without the expense and delay of a special stockholders' meeting to approve any proposed issuance of additional authorized capital stock. Such corporate purposes could include, without limitation: (a) issuance in connection with any desirable acquisitions which may be presented to the Company, (b) the payment of stock dividends or issuance pursuant to stock splits, (c) the issuance of Common Stock upon exercise of options granted under a stock option plan or in connection with other employee benefit plans, (d) the issuance of Common Stock upon the conversion of any Preferred Stock or the exercise of warrants or the conversion of other securities convertible into Common Stock which may be outstanding from time to time, and (e) issuance in connection with an offering to raise capital for the Company.

The authorized shares of Common Stock will be available for issuance at such times and for such purposes as the Board of Directors may deem advisable without further action by the stockholders, except as may be required by the Articles of Incorporation, as amended, and applicable laws and regulations.

The Articles of Amendment of the Certificate of Incorporation (the "Articles of Amendment") may have the result of making it more difficult for any persons or group of persons, other than the current principal stockholders and management, to acquire control of the Company by expanding the ability of the Company to issue shares and thereby dilute the voting power of any person or group that might accumulate shares in order to attempt to effect a change in control. Although the Articles of Amendment might have such effect, the Articles of Amendment has been proposed by the Board of Directors for the reasons set forth above and not for anti-takeover reasons. The Company is not aware of any present effort to accumulate shares of Common Stock or to attempt a change of control of the Company.

Despite the proposed increase in authorized common stock, the large number of common stock already outstanding and the Company's long term goal of having its common stock traded on one or more major exchanges (which may require substantially higher common stock prices than that at which the Company's common stock is currently traded), the Company does not have a current plan to engage in a reverse split of its common stock. While the Company may eventually engage in a reverse split of its common stock, it would only approve such an action at such time that it believed the reverse split would result in improved stockholder value.

The text of the Articles of Amendment is attached as Appendix A and is incorporated herein by reference. The Articles of Amendment will become effective upon the filing of a certificate of amendment relating thereto with the Secretary of State of the State of Delaware, which will occur on or about March 7, 2009. Under federal securities laws, the Company cannot file the certificate of amendment until at least 20 days after the mailing of this Information Statement.

EFFECT OF THE INCREASE IN AUTHORIZED CAPITAL STOCK

The increase in the authorized capital stock of the Company will affect all of the Company's stockholders uniformly and will not affect any stockholder's percentage ownership interests in the Company or proportionate voting power, unless and until additional shares of common stock authorized by the Articles of Amendment are issued.

The increase in the authorized capital stock of the Company will have the following effects upon the shares of the Company's authorized and issued capital stock:

- * The number of shares of common stock owned by each stockholder will remain the same;
- * The total number of shares of authorized common stock will increase to 800,000,000 shares;
- * The par value of the common stock will remain unchanged.
- * The total number of authorized, but to date unissued, preferred stock remains at 100,000,000 shares.

NO RIGHTS OF APPRAISAL

Under the Laws of Delaware, the Company's dissenting stockholders are not entitled to appraisal rights with respect to the actions set forth herein, and the Company will not independently provide its stockholders with any such rights.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES

The Company believes that there are no federal income tax consequences to holders of the common stock. However, the Company's beliefs regarding the tax consequences of the actions described herein are not binding upon the Internal Revenue Service or the courts, and there can be no assurance that the Internal Revenue Service or the courts will accept the positions expressed above.

This summary does not purport to be complete and does not address the tax consequences to holders that are subject to special tax rules, such as banks, insurance companies, regulated investment companies, personal holding companies, foreign entities, nonresident foreign individuals, broker-dealers and tax exempt entities. Stockholders are urged to consult their own tax advisors with respect to the Federal, State and local tax consequences of the actions described herein.

APPROVAL OF PROPOSED AMENDMENTS

RECORD DATE

The Company set December 31, 2008 (the "Record Date") as the record date for purposes of determining the stockholders of record who are entitled to receive notice of the Articles of Amendment of the Certificate of Incorporation.

ACTIONS APPROVED

On December 22, 2008, the Company's Board of Directors unanimously approved the Articles of Amendment to Certificate of Incorporation, as set forth on Appendix A hereto, to increase the number of authorized shares of the Company's capital stock and recommended that such proposal be submitted for stockholder approval.

Adoption of the Articles of Amendment to the Certificate of Incorporation requires the approval of the Company's stockholders holding not less than a majority of the Company's issued and outstanding common stock. As of the Record Date, there were 289,885,858 shares of common stock issued and outstanding, each share entitled to a single vote, of which 273,291,834 shares, or approximately 94.3%, were owned by TGR Energy, LLC. Rather than calling a meeting of its stockholders to vote on the approval of the Articles of Amendment to the Certificate of Incorporation, the Company obtained the approval of the actions recommended from TGR Energy LLC, the holder of a majority of the Company's issued and outstanding common stock, by written consent in lieu of a meeting pursuant to Section 228 of the Delaware General Corporation Law.

In accordance with Rule 14c-2 under the Securities Exchange Act of 1934, the actions recommended by the directors and approved by written consent of the majority stockholder will not take effect any earlier than 20 calendar days after the date on which this Information Statement is sent or given to all persons who were holders of record of the Company's issued and outstanding common stock on the Record Date. The Articles of Amendment will become effective upon filing with the State of Delaware, expected on or about March 7, 2009.

**VOTING SECURITIES AND PRINCIPAL HOLDERS THEREOF / SECURITY OWNERSHIP OF
CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The table below contains information as of December 31, 2008 about stockholders whom we believe are the beneficial owners of more than five percent (5%) of our outstanding common stock, as well as information regarding stock ownership by our directors, named executive officers who are currently serving as our officers or have been a director or executive officer of the registrant since the beginning of 2008, and our directors and executive officers as a group. Except as described below, we know of no person that beneficially owns more than 5% of our outstanding common stock. As of December 31, 2008, there were 289,885,858 shares of common stock outstanding. Except as otherwise noted below, each person or entity named in the following table has the sole voting and investment power with respect to all shares of our common stock that he, she or it beneficially owns. The holders of our shares of common stock are entitled to one vote for each outstanding share on matters submitted to our stockholders. Except as otherwise noted below, the address of each person or entity named in the following table is c/o TOT Energy, Inc., 19950 W. Country Club Drive; 8th Floor, Aventura, FL 33180.

| Name | Amount Of Beneficial Ownership | Percent Of Class |
|--|--------------------------------------|------------------------|
| TGR Energy, LLC | 309,305,377 | (1) 94.8% |
| Mike Zoi | 309,305,377 | (1) 94.8% |
| Jonathan New | 184,259 | (2) * |
| Stuart Murdoch | 100,000 | (3) * |
| Curtis Wolfe | 100,000 | (3) * |
| Directors and officers as a group (three persons) | 309,689,636 | 94.9% |

Notes are on following page.

Notes:

- (1) TGR Energy, LLC is wholly-owned by Enerfund, LLC which in turn is wholly-owned by Mr. Zoi. Includes warrants to purchase 36,013,543 shares that are exercisable within 60 days of the Record Date at a price of \$0.05 per share.
- (2) Includes Options to purchase 184,259 shares that are exercisable within 60 days of the Record Date at a price of \$0.25 per share.
- (3) Options to purchase 100,000 shares that are exercisable within 60 days of the Record Date at a price of \$0.25 per share.

DELIVERY OF DOCUMENTS TO SECURITY HOLDERS SHARING AN ADDRESS

Only one Information Statement is being delivered to multiple security holders sharing an address unless the Company has received contrary instructions from one or more of the security holders. The Company shall deliver promptly upon written or oral request a separate copy of the Information Statement to a security holder at a shared address to which a single copy of the Information Statement was delivered. A security holder can notify the Company that the security holder wishes to receive a separate copy of the Information Statement by sending a written request to the Company at 19950 W. Country Club Drive; 8th Floor, Aventura, FL 33180, or by calling the Company at 305-933-3778 and requesting a copy of the Information Statement. Security holders who receive multiple copies of the Information Statement at their address and would like to request that only a single copy of communications be delivered to the shared address may do so by making either a written or oral request to the Company contacts listed above.

ARTICLES OF AMENDMENT TO CERTIFICATE OF INCORPORATION
OF
TOT ENERGY, INC.

Pursuant to Section 141 of the General Corporation Law of the State of Delaware, the undersigned, being the Chief Executive Officer of TOT ENERGY, INC., a Delaware corporation bearing document number 3762193 does hereby certify:

FIRST: The first paragraph of Article IV of the Corporation's Certificate of Incorporation, as amended, shall be deleted in its entirety and replaced with the following:

“ARTICLE IV

The total number of shares of all classes of stock which the corporation has authority to issue is 900,000,000 shares, consisting of two classes: 800,000,000 shares of Common Stock, \$0.001 par value per share, and 100,000,000 shares of Preferred Stock, \$0.001 par value per share.

SECOND: Except as hereby amended, the Articles of Incorporation of the Corporation shall remain the same.

THIRD: These Articles of Amendment shall be effective as of the date and time of filing.

FOURTH: These Articles of Amendment have been approved and adopted by the stockholders of the Corporation holding a majority of the votes entitled to be cast on the amendments, by Written Consent of the Stockholders dated December 23, 2008 pursuant to Section 228 of the General Corporation Law of Delaware. Therefore, the number of votes cast for the amendments to the Corporation's Certificate of Incorporation by the stockholders of the Corporation were sufficient for approval.

IN WITNESS WHEREOF, said Corporation has caused these Articles of Amendment to be signed in its name by its Chief Executive Officer on January 20, 2009.

TOT ENERGY, INC.

BY: /S/ MIKE ZOI
Mike Zoi
Chief Executive Officer

