

# SECURITIES & EXCHANGE COMMISSION EDGAR FILING

## Ocean Thermal Energy Corp

**Form: S-1/A**

**Date Filed: 2018-01-22**

Corporate Issuer CIK: 827099

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

**AMENDMENT NO. 1  
TO  
FORM S-1  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**Ocean Thermal Energy Corporation**

(Exact Name of Registrant as Specified in its Charter)

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

**4931**  
(Primary Standard Industrial  
Classification Code Number)

**20-5081381**  
(I.R.S. Employer  
Identification No.)

**800 South Queen Street  
Lancaster, Pennsylvania 17603  
(717) 299-1344**

*(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)*

**Jeremy P. Feakins  
Chief Executive Officer  
Ocean Thermal Energy Corporation  
800 South Queen Street  
Lancaster, Pennsylvania 17603  
(717) 299-1344**

*(Name, address, including zip code, and telephone number, including area code, of agent for service)*

***Copies to:*  
John P. Cleary, Esq.  
Christopher L. Tinen, Esq.  
Procopio, Cory, Hargreaves & Savitch LLP  
12544 High Bluff Drive, Suite 300  
San Diego, California 92130  
(619) 515-3221**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box: ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer: ☐

Accelerated filer: ☐

Non-accelerated filer ☐ (Do not check if a smaller reporting company)

Smaller reporting company ☒

Emerging growth company ☐

# CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)(3)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee (4)
Common Stock, \$0.001 value per share	52,631,578	\$0.285	\$14,999,999.70	\$1,867.50

- (1) An indeterminate number of additional shares of common stock shall be issuable pursuant to Rule 416 under the Securities Act of 1933, as amended (the "Securities Act") to prevent dilution resulting from stock splits, stock dividends or similar transactions and in such an event the number of shares registered shall automatically be increased to cover the additional shares in accordance with Rule 416.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee in accordance with Rule 457(c) under the Securities Act.
- (3) Based on the average of the high and low sales prices for the registrant's common stock on January 9, 2018.
- (4) Previously paid.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

**EXPLANATORY NOTE**  
Ocean Thermal Energy Corporation

Ocean Thermal Energy Corporation is filing this Amendment No. 1 (the "Amendment") to the Registration Statement on Form S-1 (File No. 333-222529) initially filed on January 12, 2018. The Registrant is filing this Amendment for the sole purpose of replacing Exhibit 5.1 and 23.2 to the Registration Statement. This Amendment does not modify any provision of Part I or Part II of the Registration Statement other than Item 16(a) of Part II as set forth below.

**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 16. Exhibits and Financial Statement Schedules**

**(a) Exhibits.**

See the Exhibit Index attached to this Registration Statement, which is incorporated by reference herein.

**EXHIBIT INDEX**

<u>Exhibit Number</u>	<u>Title of Document</u>	<u>Location</u>
3.1	<a href="#">Articles of Incorporation of TetriDyn Solutions, Inc. dated May 15, 2006</a>	Incorporated by reference from the current report on Form 8-K filed June 7, 2006.
3.2	<a href="#">By-laws</a>	Incorporated by reference from the current report on Form 8-K filed June 7, 2006.
3.3	<a href="#">Designation of Rights, Privileges, and Preferences of Series A Preferred Stock</a>	Incorporated by reference from the annual report on Form 10-K for the year ended December 31, 2009, filed March 31, 2010.
3.4	<a href="#">Certificate of Amendment to Articles of Incorporation, dated May 8, 2017</a>	Incorporated by reference from the current report on Form 8-K filed May 12, 2017.
4.1	<a href="#">Specimen stock certificate</a>	Incorporated by reference from the registration statement on Form S-8 August 25, 2017.
5.1*	<a href="#">Legal Opinion of Procopio, Cory, Hargreaves &amp; Savitch, LLP</a>	
10.7	<a href="#">Loan Agreement between TetriDyn Solutions, Inc., and Southeast Idaho Council of Governments, Inc., together with related promissory notes, dated December 23, 2009</a>	Incorporated by reference from the annual report on Form 10-K for the year ended December 31, 2009, filed March 31, 2010.
10.18	<a href="#">Consolidated Promissory Note for \$394,350 dated December 31, 2014</a>	Incorporated by reference from the current report on Form 8-K filed June 8, 2015.
10.19	<a href="#">Investment Agreement between and among TetriDyn Solutions, Inc., Antoinette Knapp Hempstead, on behalf of herself and the estate of her late husband, David W. Hempstead, and JPF Venture Group, Inc.</a>	Incorporated by reference from the current report on Form 8-K filed June 8, 2015.
10.20	<a href="#">Agreement and Plan of Merger between TetriDyn Solutions, Inc. and Ocean Thermal Energy Corporation dated March 12, 2015</a>	Incorporated by reference from the current report on Form 8-K filed June 8, 2015.
10.22	<a href="#">Amendment to March 12, 2015 Merger Agreement</a>	Incorporated by reference from the quarterly report on Form 10-Q for the quarter ended June 30, 2015, filed October 2 2015.
10.23	<a href="#">Promissory Note dated June 23, 2015</a>	Incorporated by reference from the quarterly report on Form 10-Q for the quarter ended June 30, 2015, filed October 2 2015.
10.24	<a href="#">Agreement to Terminate Agreement and Plan of Merger between TetriDyn Solutions, Inc. and Ocean Thermal Energy Corporation</a>	Incorporated by reference from the current report on Form 8-K filed December 10, 2015.

10.25	<a href="#">Promissory Note dated February 25, 2016</a>	Incorporated by reference from the current report on Form 8-K filed March 1, 2016.
10.26	<a href="#">Promissory Note dated November 23, 2015</a>	Incorporated by reference from the annual report on Form 10-K for the year ended December 31, 2015, filed March 30, 2016.
10.27	<a href="#">Summary of Compensatory Arrangements with Directors and Named Executive Officers</a>	Incorporated by reference from the annual report on Form 10-K for the year ended December 31, 2015, filed March 30, 2016.
10.28	<a href="#">Asset Purchase Agreement between TetriDyn Solutions, Inc. and JPF Venture Group, Inc. dated December 8, 2016</a>	Incorporated by reference from the current report on Form 8-K filed December 12, 2016.
10.29	<a href="#">Promissory Note dated October 20, 2016</a>	Incorporated by reference from the current report on Form 8-K filed October 20, 2016.
10.30	<a href="#">Promissory Note dated May 20, 2016</a>	Incorporated by reference from the current report on Form 8-K filed May 24, 2016.
10.31	<a href="#">Amendment to Convertible Promissory Notes, dated February 24, 2017</a>	Incorporated by reference from the current report on Form 8-K filed March 2, 2017.
10.32	<a href="#">Agreement and Plan of Merger between TetriDyn Solutions, Inc. and Ocean Thermal Energy Corporation, dated March 1, 2017</a>	Incorporated by reference from the current report on Form 8-K filed March 10, 2017.
10.33	<a href="#">Equity Purchase Agreement, dated December 18, 2017</a>	Incorporated by reference from the current report on Form 8-K filed December 21, 2017.
10.34	<a href="#">Registration Rights Agreement, dated December 18, 2017</a>	Incorporated by reference from the current report on Form 8-K filed December 21, 2017.
10.35	<a href="#">Common Stock Purchase Warrant, dated December 18, 2017</a>	Incorporated by reference from the current report on Form 8-K filed December 21, 2017.
10.36	<a href="#">Note and Warrant Purchase Agreement, dated December 28, 2017</a>	Incorporated by reference from the current report on Form 8-K filed January 3, 2018.
10.37	<a href="#">Form of Unsecured Promissory Note</a>	Incorporated by reference from the current report on Form 8-K filed January 3, 2018.
10.38	<a href="#">Form of Common Stock Purchase Warrant</a>	Incorporated by reference from the current report on Form 8-K filed January 3, 2018.
14.1	<a href="#">Code of Ethics</a>	Incorporated by reference from the annual report on Form 10-KSB for the year ended December 31, 2006, filed April 2, 2007.
21.1	<a href="#">Schedule of Subsidiaries</a>	Incorporated by reference from the annual report on Form 10-K for the year ended December 31, 2010, filed April 13, 2011.
23.1 #	<a href="#">Consent of Liggett &amp; Webb, P.A.</a>	
23.2*	Consent of Procopio, Cory, Hargreaves & Savitch, LLP (included in Exhibit 5.1)	
24.1#	<a href="#">Power of Attorney (included on signature page)</a>	
101.INS #	XBRL Instance Document**	
101.SCH #	XBRL Extension Schema Document**	
101.CAL #	XBRL Extension Calculation Linkbase Document**	
101.DEF #	XBRL Extension Definition Linkbase Document**	
101.LAB #	XBRL Extension Labels Linkbase Document**	
101.PRE #	XBRL Extension Presentation Linkbase Document**	

\* Filed herewith.

\*\* In accordance with Rule 406T of Regulation S-T, this information is deemed not "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

# Previously filed.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Lancaster, State of Pennsylvania, on January 22, 2018.

**OCEAN THERMAL ENERGY CORPORATION**

By: /s/ Jeremy P. Feakins  
 Jeremy P. Feakins  
 Chief Executive Officer and Chief Financial Officer (Principal Executive  
 and Financial Officer)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Jeremy P. Feakins</u> Jeremy P. Feakins	Chief Executive Officer, Chief Financial Officer and Chairman (Principal Executive and Financial Officer)	January 22, 2018
<u>*</u> Peter Wolfson	Director	January 22, 2018
<u>*</u> Antoinette Hempstead	Director	January 22, 2018

\*By: /s/ Jeremy P. Feakins  
Name: Jeremy P. Feakins  
Title: Chief Executive Officer and Chief Financial Officer



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January 12, 2018

Ocean Thermal Energy Corporation  
800 South Queen Street  
Lancaster, PA 17603

Re: Registration Statement on Form S-1

Ladies and Gentlemen:

We have acted as counsel to Ocean Thermal Energy Corporation, a Nevada corporation (the "Company"), in connection with its filing on the date hereof with the Securities and Exchange Commission (the "Commission") of a registration statement on Form S-1 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Act"), relating to the registration of the resale of up to 52,631,578 shares of the Company's common stock, par value \$0.001 per share (the "Securities") issuable pursuant to the terms and conditions of an Equity Purchase Agreement dated December 18, 2017 (the "Equity Purchase Agreement") by and between the Company and L2 Capital, LLC ("L2 Capital") to be offered on an immediate, continuous or delayed basis by the Company pursuant to provisions of Rule 415 under the Act.

This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement other than as expressly stated herein with respect to the issue of the Securities.

In connection with this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of: (a) the Registration Statement and the exhibits thereto; (b) the Company's Articles of Incorporation, as amended; (c) the Company's Bylaws, as amended; (d) the Equity Purchase Agreement, including all exhibits thereto; (e) certain records of the Company's corporate proceedings as reflected in its minute books; and (f) such statutes, records and other documents as we have deemed relevant. In addition, we have made such other examinations of law and fact as we have deemed relevant in order to form a basis for the opinions hereinafter expressed.

As to questions of fact material to this opinion, we have relied on certificates or comparable documents of public officials and of officers and representatives of the Company. In rendering the opinion expressed below, we have assumed without verification the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as copies, and the authenticity of the originals of such copies.

Based upon and subject to the foregoing and the other matters set forth herein, we are of the opinion that when (A) the Board of Directors of the Company (the "Board") has taken all necessary corporate action in conformity with the Company's Articles of Incorporation, as amended, and Bylaws, as amended, to approve the issuance of the Securities, the terms of the offering thereof and related matters, and (B) such Securities have been issued and delivered in accordance with the terms of the Equity Purchase Agreement against payment therefor as provided therein (which shall not be less than par value of the Securities), such Securities will be validly issued, fully paid and nonassessable.

We do not express any opinion herein concerning any law other than the corporation laws of the State of Nevada, as in effect on the date hereof and we express no opinion with respect to the applicability of the laws of any other jurisdiction or, in the case of Nevada, any other laws, or as to any matters of municipal law or the laws of any local agencies within any state.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement and to the use of our name under the caption "Legal Matters" in the Registration Statement. We further consent to the incorporation by reference of this letter and consent into any registration statement or post-effective amendment to the Registration Statement filed pursuant to Rule 462(b) under the Act with respect to the Securities. In giving this consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Procopio, Cory, Hargreaves & Savitch LLP

Procopio, Cory, Hargreaves & Savitch LLP