



Control Number: 27960



Item Number: 4

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**AGGREGATOR REGISTRATION FORM**  
*For the Texas Retail Electric Market*

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**PROJECT NO. 27960** *(Assigned by Central Records when registration is initially filed)*

**Registering Party:**

ENERGY OPTIMIZERS, INC., d/b/a EOI POWER PLAY

**Authorized Representative or Attorney to contact about this application:**

NAME: Daniel F. Ofchinick                      TITLE: President/CEO  
ADDRESS: 1333 McDermott, Suite 200 – PMB 101, Allen, Texas 75013  
TELEPHONE: 469.519.1061                      FAX: 214.265.0969  
EMAIL ADDRESS: sales@energyoptimizers.net

**Agent for Service of Process:**

NAME: Jesse L. Whittenton                      TITLE: Attorney at Law  
ADDRESS: 6836 Bee Caves Road, Suite 400, Austin, Texas 78746-5073  
TELEPHONE: 512.732.7300                      FAX: 512.732.7367  
EMAIL ADDRESS: jesse@whittentonhurst.com

**Check the most appropriate box to describe the submission of this document:**

- ~~This submission opens a new aggregator registration.~~
- X This submission supplies additional information for a pending aggregator registration.
- ☐ ~~This submission amends an existing, completed aggregator registration.~~

X

Review the *Instructions*. Fill out Parts A through C of this Registration Form and the Affidavit according to the aggregator classification(s) desired:

**Class I:** Parts A, B, C, and Affidavit.  
**Class II.A:** Parts A, B, C, and Affidavit  
**Class II.B:** Part A and Affidavit.  
**Class II.C:** Part A and Affidavit.  
**Class II.D:** Parts A, B, C, and Affidavit.

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## PART A – GENERAL INFORMATION

### *APPLICABLE TO ALL REGISTERING PARTIES*

**1. Legal Name of Registering Party:** ENERGY OPTIMIZERS, INC.

**2. Type of registering party.** Review the definitions in the *Instructions* and check appropriate box:

- ☒ **Person**  
☐ ~~Political subdivision~~  
☐ ~~Political subdivision corporation~~

**3. Types of aggregator registrations sought.** Review the required eligibility and operational parameters listed in the *Instructions* and check appropriate box or boxes:

- ☒ **Class I:** Private entity that aggregates private customers to buy electricity from REPs.  
☐ ~~Class II.A:~~ Person that aggregates municipalities, political subdivisions, or both.  
☐ ~~Class II.B:~~ Political subdivision corporation aggregating political subdivisions.  
☐ ~~Class II.C:~~ Public body that aggregates its citizens.  
☐ ~~Class II.D:~~ Administrator of citizen aggregation.

**4. Other Names.** List any trade, commercial, and doing-business-as (d/b/a) names, other than the legal name listed in #1 above, under which the registering party intends to operate (Class I, II.A and II.B aggregators are limited to 5 operating names.):

ENERGY OPTIMIZERS, INC., d/b/a EOI POWER PLAY

**5. Address.** List the registering party's Texas business address, telephone number and fax number. Provide the same details for the principal place of business, if different from the Texas business address.

1333 McDermott, Suite 200 – PMB 101, Allen, Texas 75013  
TELEPHONE: 469.519.1061 FAX: 214.265.0969

**6. Officers.** Provide, as **Attachment A**, the names, business addresses, and phone numbers of the registering party's officers, directors, or partners.

**7. Affiliates.** Provide, as **Attachment B**, the names of the registering party's affiliates and subsidiaries that provide utility-related services, such as telecommunications, electric, gas, water or cable (if any).

**8. Customer Service Contact.** List the telephone number of the customer service department.

469.519.1061

**9. Regulatory contact person.** List the name, physical business address, telephone number, fax number, and e-mail address for a regulatory contact person – and for the agent for service of process, if different.

a. **Regulatory contact person:** Daniel F. Ofchinick, 1333 McDermott, Suite 200 – PMB 101, Allen, Texas 75013; Telephone: 469.519.1061; Fax: 214.265.0969

b. **Agent for service of process:** Jesse L. Whittenton, 6836 Bee Caves Road, Suite 400, Austin, Texas 78746-5073 Telephone: 512.732.7300; Fax: 512.732.7367

**10. Customers.** Circle all of the electricity customer classes in the following list that the registering party intends to aggregate:

<b>RESIDENTIAL</b>	<b>COMMERCIAL</b>	<b>INDUSTRIAL</b>	<b>MUNICIPALITIES</b>	<b>POLITICAL SUBDIVISIONS</b>
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Please provide further detail regarding the classes you have selected:

**RESIDENTIAL:** The geographic areas will generally include the DFW, Houston, Corpus Christi, and San Angelo/Abilene areas. Some of the target market will include single-family homes and apartment dwellers with single unit meters.

**COMMERCIAL:** The geographic areas will generally include the DFW, Houston, Corpus Christi, and San Angelo/Abilene areas. Some of the target market will include such diverse types as office buildings, apartment complexes with master meters, car washes, restaurants, golf clubs, bakeries, dry cleaners and other similar users.

**INDUSTRIAL:** The geographic areas will generally include the DFW, Houston, Corpus Christi, and San Angelo/Abilene areas. Some of the target markets will include chemical plants, manufacturing plants, and the like.

***CLASS II.B AND CLASS II.C REGISTERING PARTIES MAY STOP HERE.  
COMPLETE THE AFFIDAVIT AND SUBMIT ALL MATERIALS, INCLUDING  
SUPPORTING ATTACHMENTS A AND B, TO THE COMMISSION.***

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## PART B – TECHNICAL AND CUSTOMER PROTECTION INFORMATION

### **APPLICABLE ONLY TO PARTIES REGISTERING FOR CLASS I, CLASS II.A, AND CLASS II.D**

Review the attached *Instructions*. Select one of the following two options for registration by checking the appropriate box. By separate attachment, provide the information required for the option chosen.

X      **1. STANDARD REGISTRATION.** To exercise the Standard Registration option, check the box at left and provide as **Attachment C** the following additional information:

- (a)    **Texas Secretary of State records.** Any applicable information on file with the Texas Secretary of State, such as copies of the registering party's endorsed certificate of incorporation certified by the Texas Secretary of State, the registering party's certificate of good standing, or other business registration on file with the Texas Secretary of State. Include any information under d/b/a (doing-business-as) names.
- (b)    **Tax delinquency disclosure.** Disclose any delinquency with taxing authorities in the state of Texas, including the Comptroller's Office.
- (c)    **Prior experience.** Describe prior experience, if any, of the registering party or one or more of the registering party's principals or employees in the retail electric industry or a related industry.
- (d)    **Affiliate and agency relationships.** Disclose any affiliate or agency relationships and the nature of any affiliate or agency agreements with REPs or transmission and distribution utilities. If such a relationship or agreement exists, explain how the registering party will disclose this information to its customers and to the REPs with whom it does business.
- (e)    **Activities in other states.** List the other states, if any, in which the registering party, and/or its affiliates and subsidiaries providing utility-related services, currently conduct business, or have previously conducted business, within the past 3 calendar years.
- (f)    **Compensation sources.** Disclose the registering party's known or anticipated sources of compensation for aggregation services, and provide an explanation of its plans for disclosure of those compensation sources to its customers.
- (g)    **Bankruptcy disclosure.** Disclose any bankruptcy or liquidation proceedings of the registering party, any predecessors in interest, or its affiliates, within the past 3 calendar years.
- (h)    **Disclosure of fraud or liability.** List any convictions or liability findings of fraud, theft or larceny, deceit, or violations of any customer protection or deceptive trade laws in any state against the registering party, a predecessor, its principals, or its affiliates.
- (i)    **Investigation status.** Provide a statement indicating whether the registering party is currently under criminal or civil investigation, either in this state or in another state or jurisdiction for violation of any customer protection law or regulation.

- (j) **Complaint history.** Provide a complete complaint history list for the past 3 calendar years as required by the Aggregator Rule (see *Instructions* for exact rule requirements).
- (k) **Pending authorizations (Class II.A or II.D aggregators only).** List pending authorizations, if any, from public entities for the registering party to aggregate their loads or that of their citizens.

☐ **2. ALTERNATIVE LIMITED REGISTRATION.** To exercise the Alternative Limited Registration described in the Instructions, which limits the size of customers that may be served, check the box at left so that the statement (a) below is incorporated into the Affidavit, and then provide as **Attachment D** the information specified in (b) below:

(a) — By executing the Affidavit attached hereto, the registering party swears and affirms that it is aware of, and will comply with, P.U.C. SUBST. R. §25.111(f)(2), which applies to entities that aggregate only customers who seek to contract individually for 250 kilowatts or more of peak demand electricity. Specifically, the registering party swears and affirms that it possesses a written consent from each customer it plans to serve, authorizing the registering party to provide aggregation for that customer.

(b) — Provide as **Attachment D** the information required by paragraphs (a), (b), (c), (g), (h), (i), and (k) of the Standard Registration requirements.<sup>1</sup>

## **PART C – FINANCIAL RESOURCE INFORMATION**

### **APPLICABLE ONLY TO PARTIES REGISTERING FOR CLASS I, CLASS II.A, AND CLASS II.D.**

**1. Intention to take deposits or other advance payments.** Check only one of the following two statements of intention:

☐ **~~YES, THE REGISTERING PARTY WILL COLLECT DEPOSITS OR OTHER ADVANCE PAYMENTS FROM ELECTRIC CUSTOMERS IN ADVANCE OF DELIVERING AGGREGATION SERVICES.~~**

~~By executing the Affidavit attached hereto, the registering party swears and affirms that it is aware of, and will comply with, P.U.C. SUBST. R. §25.111(g)(1)(A) (D), which applies to any entities that aggregate electricity customers and intend to take any deposits or other advance payments from electricity customers for aggregation services.~~

~~If the “YES” box above is selected, proceed to Item No. 2 below to indicate the method of meeting the financial qualifications required by the Aggregator Rule.~~

**X** **NO, THE REGISTERING PARTY WILL NOT COLLECT DEPOSITS OR OTHER ADVANCE PAYMENTS FROM CUSTOMERS IN ADVANCE OF DELIVERING AGGREGATION SERVICES.**

<sup>1</sup> Parties registering by means of the Alternative Limited Registration option are exempted from the information required by paragraphs (d), (e), (f) and (j) of the Standard Registration and from the affiliate disclosure required by No. 7 of *Part A*.

By executing the Affidavit attached hereto, the registering party swears and affirms that, if it later decides to take prepayments, it shall amend its registration in advance of accepting such deposits or other advance payments for aggregation services. That amended registration shall demonstrate compliance with P.U.C. SUBST. R. §25.111(g) within 90 days of receiving the first payment for aggregation services and before those services are rendered.

If the "NO" box above is selected, stop here and proceed to the *Affidavit*.

**2. Method of financial qualification.** Check only one of the two boxes below to select one of the two methods for financial qualification to collect deposits and advance payments. The "standard" qualifications are available to any registering party, but the "alternative" qualifications are limited to those parties who have selected the Alternative Limited Registration in Part B. Provide the respective documentation materials indicated for the method selected:

☐ **STANDARD FINANCIAL QUALIFICATIONS.** This method of qualification is the only option for parties registering under the Standard Registration in Part B.

(a) **Calculation methodology.** The amount of required financial resources equals the registering party's cumulative obligations to customers arising from deposits or other advance payments for aggregation services made by customers prior to the delivery of aggregation services. Provide as **Attachment E** the registering party's methodology for calculating the required amount of financial resources.

(b) **Financial evidence.** From the following list, indicate which financial instruments are used to demonstrate the registering party's compliance with the Aggregator Rule's financial requirements. Then provide the applicable supporting documentation as required by (c), (d), (e), and (f) below (supply only the applicable attachments).

- ☐ A certificate of deposit with a bank or other financial institution;
- ☐ A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 15 months;
- ☐ A line of credit or other loan issued by a bank or other financial institution, including a bond in a form approved by the commission, irrevocable for a period of at least 15 months;
- ☐ A loan issued by a subsidiary or affiliate of the applicant or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 15 months;
- ☐ A guaranty issued by a shareholder or principal of the applicant; a subsidiary or affiliate of the applicant or a corporation holding controlling interest in the applicant; irrevocable for period of at least 15 months.
- ☐ An investment grade credit rating.
- ☐ Other financial evidence approved in advance by the commission \_\_\_\_\_

- (c) **Financial integrity of loans or guarantees.** If applicable, provide as **Attachment F** the financial evidence showing that the lender or guarantor possesses the financial resources needed to fund the loan or guaranty.
- (d) **Unencumbered resources.** Provide as **Attachment G** evidence of cash and other instruments listed as financial resources unencumbered by pledges for collateral.
- (e) **Credit ratings.** If applicable, provide as **Attachment H** evidence of investment grade credit rating.
- (f) **Disclosure to financial backers.** Provide as **Attachment I** evidence that a copy of P.U.C. SUBST. R. 25.111 (the Aggregator Rule) has been provided to any party providing, either directly or indirectly, financial resources necessary to protect customers pursuant to this paragraph.

- ☐ **ALTERNATIVE FINANCIAL QUALIFICATIONS FOR LIMITED REGISTRATION.** This method of qualification is available only to parties who register by means of the Alternative Limited Registration, specifically those that aggregate customers that individually contract for at least 250 kilowatts of peak demand electricity. Check the box at left to exercise this option and incorporate into the Affidavit the statement below:

By executing the affidavit attached hereto, the registering party swears and affirms that it is aware of, and will comply with, P.U.C. SUBST. R. 25.111(g)(2), which applies to entities that aggregate only customers that individually contract for 250 kilowatts or more of peak demand electricity. Specifically, the registering party swears and affirms that it possesses a written consent from each customer it wishes to serve, authorizing the registering party to provide aggregation for that customer *without* establishing the cash and credit resources normally required of aggregators who take deposits or other advance payments from customers.

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## AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned, who, after being duly sworn, stated on their oath that they are entitled to make this Affidavit, and that the statements contained below and in the foregoing are true and correct.

Check one of the following boxes:

- ☐ I am an owner, partner, or officer of the registering party, which is registering as a Class II.B or Class II.C aggregator.
- ☐ I am an owner, partner, or officer of the registering party, which is registering as a Class I, Class II.A, and/or a Class II.D aggregator.

I swear or affirm that I have personal knowledge of the facts stated in the attached registration, that I am competent to testify to them, and that I have the authority to submit this application form on behalf of the registering party. I further swear or affirm that all statements made in the Registration Form are true, correct and complete and that any substantial changes in such information will be provided to the Public Utility Commission of Texas in a timely manner. I swear or affirm that the registering party understands and will comply with all requirements of the applicable law and rules, including any required submission of additional information by sworn affidavit prior to the provision of electric service.

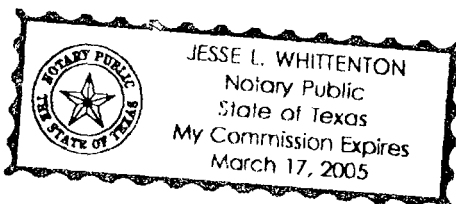
[Signature]  
Signature of Registering Party's Owner, Partner, or Officer

Daniel F. Ozhinich  
Printed Name

Energy Optimizers dba  
Name of Registering Party

EOT  
Power  
Play

Sworn and subscribed before me this 17 day of July, 2003  
Month Year



[Signature]  
Notary Public

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# ENERGY OPTIMIZERS, INC.

## Aggregation Registration

### Attachment C (Technical & Customer Protection Information)

(a) **Texas Secretary of State records.**

1. Articles of Incorporation
2. Certificate of Good Standing
3. Assumed Name Certificate

(b) **Tax delinquency disclosure.** Disclose any delinquency with taxing authorities in the state of Texas, including the Comptroller's Office. **N/A**

(c) **Prior experience.** Describe prior experience, if any, of the registering party or one or more of the registering party's principals or employees in the retail electric industry or a related industry.

**(1) Daniel F. Ofchinick—President & CEO.** Mr. Ofchinick brings nineteen years of sales, marketing and business development experience to EOI with fifteen years of direct experience in the energy industry.

He cultivated his skills most recently serving as Director of Sales for TME Energy Services - Texas. Mr. Ofchinick's prior position was Manager of Commercial Accounts for TXU Energy-Gulf Coast Region where he managed the direct sales force of TXU selling energy services to commercial accounts. He also headed up the Carrier/TXU Energy Program, an indirect channel initiative spanning more than 1,000 independent contractors. His advanced business acumen and skillful management techniques have not gone unnoticed - Mr. Ofchinick was honored as the Top Commercial Sales Representative nationwide for TXU and was responsible for building the sales program structure for TXU in Texas.

Prior to joining TXU, Mr. Ofchinick served as Area Marketing Director at Consolidated Fuel Corporation. He previously served as Sales Executive for Enercon Tech. Inc., a company that pioneered the retail marketing of Natural Gas/Electricity in Western Pennsylvania, Ohio and West Virginia. Prior to joining Enercon Tech, Inc., Mr. Ofchinick headed the largest family-owned and operated independent trucking firm in Western Pennsylvania, grossing in excess of \$2 million in revenue per month. No new-comer to the energy business, Mr. Ofchinick possesses the vision to lead, and is armed with the knowledge and experience to see customers' needs fulfilled.

Mr. Ofchinick is a graduate of the IC School of Business in Scranton, Pennsylvania where he received a diploma in Business Management. Mr. Ofchinick received his Life, Health, Disability and Mutual Fund licensing through the Russ Financial School.

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**(2) Lloyd Spragins–Executive Vice-President** Lloyd Spragins graduated from The University of Oklahoma where he received his bachelor's degree in Political Science. He attended George Washington University where he continued his graduate work in International Business.

Mr. Spragins worked as section director for The National Electrical Manufacturers Association in Washington DC where he acted as liaison between the Manufacturers, Public Utilities, Federal Regulatory Agencies and Congressional Over-site Committees.

He left Washington D.C. to work in Central America with the US Department of Commerce Market and Technology Access Project where he worked with Manufacturers to transfer technology and establish sales channels into U.S. markets.

Mr. Spragins began his career in the commercial roofing industry in 1990. Today he is President of Cool Roof Systems, Inc. He is a partner in the EPA Energy Star Program. He is in demand as a consultant and guest speaker giving lectures on the relationship between Energy Efficiency, Pollution Prevention and Profitability.

The National Republican Congressional Committee recognized Mr. Spragins as Texas Business Man of The Year in 2003 for his advocacy role in the Energy Star Program objectives.

Armed with this wealth of experience and knowledge, Mr. Spragins brings significant benefit to EOI in matters of energy efficiency.

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**(3) Marc C. Miller–Executive Vice-President** Empowered by 25 years of industry experience, Marc Miller as a leader has brought a vision for revolutionary change to the title insurance industry. His broad knowledge of the real estate industry coupled with his numerous associations with builders, agents, lenders and other professionals in the extended real estate community, make him a valuable asset to the EOI team.

After receiving his education at Oklahoma University where he majored in Marketing, Marc began his career at Lawyer's Title as a Title Agency Representative. His work in the industry led him through a series of key leadership positions where he was recognized as a zealous disciple of innovative marketing, national account services, and efficient, cost-effective internal operations. Miller's management style and communications skills would not go unnoticed and in 1996 he accepted the position of President of Texas Title Company, a new title subsidiary in the Dallas area. Over a 4-year period, Miller grew Texas Title to the 15th largest title company in the Metroplex.

In 2000, Mr. Miller was sought out to take over the leadership of the largest title company in the Dallas Metroplex, LandAmerica American Title, by parent company, LandAmerica Financial Group, Inc. Under his administration, LandAmerica American Title Company has maintained a market share of 31%, has opened more direct offices than LandAmerica American Title had opened in the five years prior to his administration, and has averaged over 4,000 opened orders per month.

Consistent, quality leadership, and a strong presence in the marketplace put Marc Miller at the forefront of the industry and in 2002 placed him in the principal position of CEO of LandAmerica American Title and LandAmerica Texas Title Companies. Under his direction, Marc positioned these companies to bring the title business into a new ".com order" within the next two years and he is well on his way to achieving that goal. His goals for EOI are equally ambitious.

Marc Miller's commitment to excellence does not end with business. Mr. Miller gives his time in serving local charitable and business organizations. He is a member of the Board of Directors of Collin County Children's Advocacy Center where his leadership has had a direct impact in the expansion and success of programs that benefit children and families in trouble. He also serves as President of Rainbow for Children, Inc. There, he has been instrumental in developing a partnership with Child Protective Services, which has resulted in the creation of the Rainbow Room, an emergency supply room for caseworkers when they have needs for children. Marc Miller also gives his time in service as a member of the Board of Directors for Collin County Association of Realtors® and the Builder Realty Council.

He brings to EOI this extensive grasp of the total real estate marketplace and an admirable track record of consistent success.

- (d) **Affiliate and agency relationships.** Disclose any affiliate or agency relationships and the nature of any affiliate or agency agreements with REPs or transmission and distribution utilities. If such a relationship or agreement exists, explain how the

registering party will disclose this information to its customers and to the REPs with whom it does business. **None**

- (e) **Activities in other states.** List the other states, if any, in which the registering party, and/or its affiliates and subsidiaries providing utility-related services, currently conduct business, or have previously conducted business, within the past 3 calendar years. **None**
- (f) **Compensation sources.** Disclose the registering party's known or anticipated sources of compensation for aggregation services, and provide an explanation of its plans for disclosure of those compensation sources to its customers. **EOI will receive an “adder” of between 1 and 3 mils, depending on the contract. This fee will be shown to the prospective customer on the Savings Proposal, then added to their bill from the Supplier, and then paid by the Supplier to EOI.**
- (g) **Bankruptcy disclosure.** Disclose any bankruptcy or liquidation proceedings of the registering party, any predecessors in interest, or its affiliates, within the past 3 calendar years. **There are none.**
- (h) **Disclosure of fraud or liability.** List any convictions or liability findings of fraud, theft or larceny, deceit, or violations of any customer protection or deceptive trade laws in any state against the registering party, a predecessor, its principals, or its affiliates. **There are none.**
- (i) **Investigation status.** Provide a statement indicating whether the registering party is currently under criminal or civil investigation, either in this state or in another state or jurisdiction for violation of any customer protection law or regulation. **There are none.**
- (j) **Complaint history.** Provide a complete complaint history list for the past 3 calendar years as required by the Aggregator Rule (*see Instructions* for exact rule requirements). **There are none.**
- (k) **Pending authorizations (Class II.A or II.D aggregators only).** List pending authorizations, if any, from public entities for the registering party to aggregate their loads or that of their citizens. **There are none.**