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FORM PTO-1618A
Expires 06/30/99
OMB 0651-0027

09-18-2000

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK



101460480

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type		Conveyance Type	
<input checked="" type="checkbox"/> New		<input type="checkbox"/> Assignment	<input type="checkbox"/> License
<input type="checkbox"/> Resubmission (Non-Recordation) Document ID # <input type="text"/>		<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Nunc Pro Tunc Assignment
<input type="checkbox"/> Correction of PTO Error Reel # <input type="text"/> Frame # <input type="text"/>		<input checked="" type="checkbox"/> Merger	Effective Date Month Day Year <input type="text"/>
<input type="checkbox"/> Corrective Document Reel # <input type="text"/> Frame # <input type="text"/>		<input type="checkbox"/> Change of Name	
		<input type="checkbox"/> Other <input type="text"/>	

Conveying Party Mark if additional names of conveying parties attached

Name Execution Date
Month Day Year

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

75429752

Receiving Party Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City State/Country Zip Code

Individual General Partnership Limited Partnership If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Corporation Association

Other

Citizenship/State of Incorporation/Organization

09/18/2000 IJALLAH2 00000294 75429752
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Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK
REEL: 002138 FRAME: 0915

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text" value="75/429,752"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Gary L. Kemp

Name of Person Signing

Signature

Date Signed

8/23/00

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"EXCELERGY CORPORATION", A MASSACHUSETTS CORPORATION, WITH AND INTO "EXCELERGY CORPORATION" UNDER THE NAME OF "EXCELERGY CORPORATION", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRTIETH DAY OF DECEMBER, A.D. 1999, AT 3 O'CLOCK P.M.



3151132 8100M

001423934

A handwritten signature in cursive script that reads "Edward J. Freel".

Edward J. Freel, Secretary of State

AUTHENTICATION: 0631862

DATE: 08-22-00

TRADEMARK
REEL: 002138 FRAME: 0917

**CERTIFICATE OF MERGER OF
EXCELERGY CORPORATION
a Massachusetts corporation,
WITH AND INTO
EXCELERGY CORPORATION
a Delaware corporation**

The undersigned corporation, organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"),

DOES HEREBY CERTIFY:

FIRST: That the name and jurisdiction of incorporation of each of the constituent corporations of the merger are as follows:

<u>Name</u>	<u>Jurisdiction of Incorporation</u>
Excelergy Corporation	Massachusetts
Excelergy Corporation	Delaware

SECOND: That the Agreement and Plan of Merger, dated as of December 30, 1999, between the constituent corporations (the "Merger Agreement") has been approved, adopted certified, executed and acknowledged by each of the constituent corporations in accordance with Section 252(c) of the DGCL.

THIRD: That the name of the surviving corporation in the merger is Excelergy Corporation, a Delaware corporation.

FOURTH: That the certificate of incorporation of Excelergy Corporation, a Delaware corporation, which is surviving the merger, shall be the certificate of incorporation of the surviving corporation.

FIFTH: The executed Merger Agreement is on file at the principal place of business of the surviving corporation at 3 Cambridge Center, Cambridge, Massachusetts 02142.

SIXTH: A copy of the Merger Agreement will be furnished by the surviving corporation, on request and without cost, to any stockholder of any constituent corporation.


SEVENTH: The authorized capital stock of Excelergy Corporation, a constituent corporation which is a Massachusetts corporation, is 25,348,430 shares, divided into two classes as follows: (i) 20,317,094 shares of common stock having \$.01 par value per share, and (ii) 5,031,336 shares of serial preferred stock, each series so designated having a par value of \$.01 per share.

IN WITNESS WHEREOF, the undersigned corporation has caused this Certificate of Merger to be duly executed as of this 30th day of December, 1999.

EXCELERGY CORPORATION

a Delaware corporation

By:



Cary G. Bullock
President and Chief Executive Officer

CC
Examiner

The Commonwealth of Massachusetts

William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512

081

ARTICLES OF ~~CONSOLIDATION~~ / *MERGER (General Laws, Chapter 156B, Section 79)

~~Consolidation~~ / *merger of

(M) Excenergy Corporation
(a Massachusetts Corporation)

and

(S) Excenergy Corporation
NR (a Delaware Corporation)

the constituent corporations, into

(S) Excenergy Corporation

~~Consolidation~~ / *one of the constituent corporations organized under the laws of: Delaware

The undersigned officers of each of the constituent corporations certify under the penalties of perjury as follows:

1. An agreement of ~~consolidation~~ / *merger has been duly adopted in compliance with the requirements of General Laws, Chapter 156B, Section 79, and will be kept as provided by Subsection (c) thereof. The ~~resulting~~ / *surviving corporation will furnish a copy of said agreement to any of its stockholders, or to any person who was a stockholder of any constituent corporation, upon written request and without charge.
2. The effective date of the ~~consolidation~~ / *merger determined pursuant to the agreement of ~~consolidation~~ / *merger shall be the date approved and filed by the Secretary of the Commonwealth. If a later effective date is desired, specify such date which shall not be more than *thirty days* after the date of filing:

3. (For a merger)

**The following amendments to the Articles of Organization of the *surviving* corporation have been effected pursuant to the agreement of merger:

None

(For a consolidation)

(a) The purpose of the *resulting* corporation is to engage in the following business activities:

N/A

C ---
P ---
M ---
R.A. ---

4
P.C.

*Delete the inapplicable words.

Note: If the space provided under any article or item on this form is insufficient, additions shall be set forth on separate 8 1/2 x 11 sheets of paper with a left margin of at least 1 inch. Additions to more than one article may be made on a single sheet as long as each article requiring each addition is clearly indicated.

(For a consolidation)

(b) State the total number of shares and the par value, if any, of each class of stock which the *resulting* corporation is authorized to issue:

WITHOUT PAR VALUE		WITH PAR VALUE		
TYPE	NUMBER OF SHARES	TYPE	NUMBER OF SHARES	PAR VALUE
Common:	n/a	Common:	n/a	
Preferred:	n/a	Preferred:	n/a	

** (c) If more than one class of stock is authorized, state a distinguishing designation for each class and provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of each class and of each series then established.

n/a

** (d) The restrictions, if any, on the transfer of stock contained in the agreement of consolidation are:

n/a

** (e) Other lawful provisions, if any, for the conduct and regulation of the business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the corporation, or of its directors or stockholders, or of any class of stockholders:

n/a

Item 4 below may be deleted if the resulting /surviving corporation is organized under the laws of a state other than Massachusetts.

4. The information contained in Item 4 is not a permanent part of the Articles of Organization of the *resulting / *surviving corporation.

(a) The street address (*post office boxes are not acceptable*) of the *resulting / *surviving corporation in Massachusetts is:

n/a

**If there are no provisions state "None"*

(b) The name, residential address and post office address of each director and officer of the *resulting / *surviving corporation is:

	NAME	RESIDENTIAL ADDRESS	POST OFFICE ADDRESS
President:			
Treasurer:	n/a		
Clerk:			
Directors:			

(c) The fiscal year end (i.e. tax year) of the *resulting / *surviving corporation shall end on the last day of the month of:
n/a

(d) The name and business address of the resident agent, if any, of the *resulting / *surviving corporation is:
n/a

Item 5 below may be deleted if the resulting/surviving corporation is organized under the laws of Massachusetts.

5. The *resulting / *surviving corporation hereby agrees that it may be sued in the Commonwealth of Massachusetts for any prior obligation of any constituent Massachusetts corporation, any prior obligation of any constituent foreign corporation qualified under General Laws, Chapter 181, and any obligations hereafter incurred by the *resulting / *surviving corporation, including the obligation created by General Laws, Chapter 156B, Section 85, so long as any liability remains outstanding against the corporation in the Commonwealth of Massachusetts, and it hereby irrevocably appoints the Secretary of the Commonwealth as its agent to accept service of process in any action for the enforcement of any such obligation, including taxes, in the same manner as provided in Chapter 181.

FOR MASSACHUSETTS CORPORATIONS

The undersigned *President / ~~Vice President~~ and *Clerk / *Assistant Clerk of Excelergy Corporation, a corporation organized under the laws of Massachusetts, further state under the penalties of perjury that the agreement of ~~consolidation~~ / merger has been duly executed on behalf of such corporation and duly approved in the manner required by General Laws, Chapter 156B, Section 78.

Cary G. Bullock, *President / ~~Vice President~~
Cary G. Bullock

Daniel Putman, *Clerk / *Assistant Clerk
Daniel Putman

FOR CORPORATIONS ORGANIZED IN A STATE OTHER THAN MASSACHUSETTS

The undersigned, † President and †† Assistant Secretary of Excelergy Corporation, a corporation organized under the laws of Delaware, further state under the penalties of perjury that the agreement of ~~consolidation~~ / merger has been duly adopted by such corporation in the manner required by the laws of Delaware.

**Delete the inapplicable words.*

†Specify the officer having powers and duties corresponding to those of the president or vice president of a Massachusetts corporation organized under General Laws, Chapter 156B.

††Specify the officer having powers and duties corresponding to the clerk or assistant clerk of such a Massachusetts corporation.

† Cary G. Bullock, President
Cary G. Bullock
†† Daniel Putman, Assistant Secretary
Daniel Putman

169708

687193

THE COMMONWEALTH OF MASSACHUSETTS

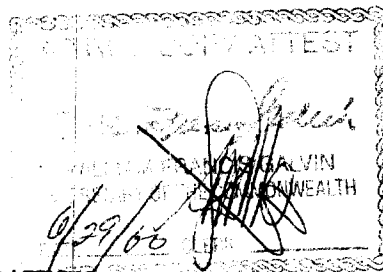
ARTICLES OF ~~CONSOLIDATION~~ / *MERGER
(General Laws, Chapter 156B, Section 79)

I hereby approve the within Articles of ~~Consolidation~~ / *Merger and,
the filing fee in the amount of \$ 250.00 , having been paid,
said articles are deemed to have been filed with me this 30th
day of DECEMBER , 19 99.

Effective date _____

WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

SECRETARY OF THE
COMMONWEALTH
99 DEC 30 PM 3:43



TO BE FILLED IN BY CORPORATION
Photocopy of document to be sent to:

Erica L. Clark, Esq.
Testa, Hurwitz & Thibault, LLP
125 High Street, Boston, MA 02110.
Telephone: (617)248-7884