

264850



ACCOUNT NO. : 072100000032

REFERENCE : 589977 4303929

AUTHORIZATION : Patricia Pizut

COST LIMIT : \$ 87.50

FILED  
97 NOV -5 PM 3:29  
TALAHASSEE, FLORIDA  
SECRETARY OF STATE

ORDER DATE : November 5, 1997

ORDER TIME : 9:49 AM

ORDER NO. : 589977-005

CUSTOMER NO: 4303929

300002338543--5

CUSTOMER: Ms. Jazmine Roman  
Greenberg Traurig Hoffman  
21st Floor  
1221 Brickell Avenue  
Miami, FL 33131-3238

DOMESTIC AMENDMENT FILING

NAME: REPUBLIC GAS & UTILITIES CORP.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT  
       RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Karen B. Rozar

EXAMINER'S INITIALS:

NAME  
KRS  
Cul's

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SECRETARY OF STATE



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

November 6, 1997

CSC  
KAREN B. ROZAR  
TALLAHASSEE, FL

SUBJECT: REPUBLIC GAS AND UTILITIES CORP  
Ref. Number: 264850

**RESUBMIT**  
Please give original  
submission date as file date.

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

We have received your document for REPUBLIC GAS AND UTILITIES CORP and the authorization to debit your account in the amount of \$87.50. However, the document has not been filed and is being returned for the following:

Our records indicate the current name of the entity is as it appears on the enclosed computer printout. Please correct the name throughout the document.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6880.

Karen Gibson  
Corporate Specialist

Letter Number: 297A00053573

RECEIVED  
97 NOV -6 PM 2:45  
DIVISION OF CORPORATION

ARTICLES OF AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION  
OF  
REPUBLIC GAS AND UTILITIES CORP.

FILED  
97 NOV -5 PM 3:29  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

*Pursuant to the provisions of Section 607.1006 of the Florida Business Corporation Act (the "Act"), the undersigned Corporation adopts the following Articles of Amendment to its Articles of Incorporation:*

1. The name of this Corporation is REPUBLIC GAS AND UTILITIES CORP.
2. Article III of the Articles of Incorporation is deleted and replaced by new Article III, as follows:

"ARTICLE III

"The aggregate number of shares that the corporation shall have authority to issue is One Thousand (1,000) shares of voting common stock, (\$0.25) par value per share (the "Class A Common Stock") and Nineteen Thousand (19,000) shares of non-voting common stock, (\$0.25) par value per share (the "Class B Common Stock"). Fully paid stock of the corporation shall not be liable to any further call or assessment."

"The holders of Class A Common Stock and Class B Common Stock shall have identical rights with respect to (i) distributions from the corporation; (ii) the liquidation of the corporation; and (iii) all other matters affecting the corporation, except that the holders of the Class B Common Stock shall not be entitled to vote on matters affecting the corporation (except as otherwise required by the Florida Business Corporation Act)."

3. Each share of the issued and outstanding common stock of the Corporation in existence immediately prior to the foregoing amendment shall be reclassified into one-quarter (1/4) share of Class A Common Stock and Nineteen (19) shares of Class B Common Stock, without any action on the part of the holders thereof, on the terms and subject to the conditions set forth in the Plan of Recapitalization attached hereto as Exhibit "A".

4. The above and foregoing was adopted by the unanimous written consent of all of the Shareholders and all of the members of the Board of Directors of the Corporation on September 30, 1997, pursuant to Sections 607.0704 and 607.0821 of the Act.

**IN WITNESS WHEREOF**, *the undersigned officer of the Corporation has executed these Articles of Amendment, this 30<sup>th</sup> day of September, 1997.*

REPUBLIC GAS AND UTILITIES CORP. —

By: 

JEFFREY S. MILLER, President

MIAMI/CARMICHAELK/840063/S073021.DOC/9/16/97

## **EXHIBIT "A"**

### **PLAN OF RECAPITALIZATION**

This Plan of Recapitalization is adopted by the Board of Directors of REPUBLIC GAS AND UTILITIES CORP. (the "Corporation") as of the 30<sup>th</sup> day of September, 1997.

#### **ARTICLE I**

##### **PRESENT CAPITALIZATION**

The authorized capital stock of the Corporation is Four Thousand (4000) shares of common stock, \$5.00 par value, per share (the "Common Stock").

#### **ARTICLE II**

##### **THE PROPOSED PLAN OF RECAPITALIZATION**

###### **2.1 The Recapitalization.**

(a) Subject to the terms and conditions of this Plan of Recapitalization (the "Plan"), at the Effective Time (as such term is defined in Section 2.1(b) hereof), each share of Common Stock will be reclassified (the "Reclassification") in the manner set forth in Section 2.2 hereof in exchange for the "Recapitalization Consideration" (as such term is defined in Section 2.3 hereof).

(b) The Reclassification shall become effective upon the filing of the Articles of Amendment to the Articles of Incorporation of the Corporation to which this Plan of Recapitalization is attached as an exhibit (the "Articles of Amendment") with the Secretary of State of the State of Florida in accordance with the provisions of Section 607.1006 of the Florida Business Corporation Act (the "Act"). The date and time when the Reclassification shall become effective is herein referred to as the "Effective Time".

2.2 **Reclassification of Stock.** At the Effective Time, each authorized, issued and outstanding share of Common Stock shall, without any action on the part of the holder thereof, be reclassified as, and changed into, (i) one-quarter (1/4) fully paid and nonassessable share of voting common stock, Twenty-five cents (\$0.25) par value, of the Corporation (the "Class A Stock") and (ii) Nineteen (19) fully paid and nonassessable shares of non-voting common stock, Fifty Cents (\$0.25) par value, of the Corporation (the "Class B Stock"). The holders of Class A Stock and Class B Stock shall have identical rights with respect to (i) distributions from the Corporation, (ii) the liquidation of the Corporation and (iii) all other matters affecting the Corporation, except that the holders of Class B Stock shall not be entitled to vote on matters affecting the Corporation (except as otherwise required by the Act).

2.3 The Exchange.

(a) Upon the surrender to the Corporation of a certificate or certificates formally representing the Common Stock, the holder of such certificate or certificates shall, for each share of Common Stock, be entitled to receive certificates representing one . share of the Class A Stock and nine shares of the Class B Stock, all in accordance with Section 2.2 hereof.

(b) The Class A Stock and the Class B Stock are sometimes referred to herein as the "Recapitalization Consideration".

2.4 Articles of Incorporation of the Corporation. The Articles of Incorporation of the Corporation, as in effect immediately prior to the Effective Time, shall be amended at the Effective Time in the manner set forth in the Articles of Amendment, and as so amended, shall be the Articles of Incorporation of the Corporation until thereafter amended as provided therein and in accordance with the Act.

2.5 Bylaws of the Corporation. The Bylaws of the Corporation, as in effect immediately prior to the Effective Time, shall continue to be the Bylaws of the Corporation until thereafter amended as provided therein and in accordance with the Articles of Incorporation of the Corporation and the Act.

### ARTICLE III

#### CONDITIONS PRECEDENT

3.1 Conditions Precedent to Consummation of the Reclassification. The consummation of the transactions contemplated by this Plan (collectively, the "Recapitalization") is subject to the satisfaction or waiver (subject to applicable law) of each of the following conditions:

(a) Approval of the Plan. The approval of this Plan and all actions contemplated by this Plan that require the approval of the Corporation's shareholders and directors shall have been obtained in accordance with the Act and the Articles of Incorporation and Bylaws of the Corporation.

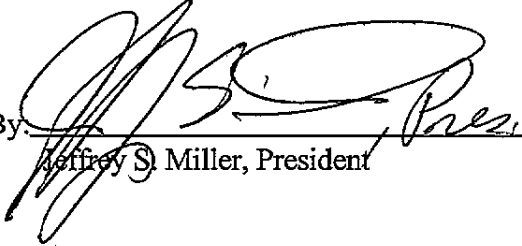
(b) Approval of the Articles. The approval of the Articles of Amendment by the Corporation's shareholders and directors shall have been obtained in accordance with the Act and the Articles of Incorporation and Bylaws of the Corporation.

(c) Litigation. No action, proceeding or investigation shall has been instituted or threatened, on or prior to the Effective Time, before any court or administrative body, to restrain, enjoin or otherwise prevent the consummation of this Plan or the transactions contemplated hereby or to recover any damages or obtain other relief as a result of this Plan, and no

restraining order or injunction issued by any court of competent jurisdiction shall be in effect prohibiting the consummation of this Plan.

IN WITNESS WHEREOF, the Corporation, pursuant to authority duly given by its Board of Directors, has caused this Plan to be duly executed by its President.

REPUBLIC GAS AND UTILITIES CORP.

By  Pres.  
Jeffrey S. Miller, President

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