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ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION
IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

_____)	
)	
In re	)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u>,	)	Case No. 03-46590-DML
	)	Jointly Administered
Debtors.)	
_____)	
)	
In re	)	Chapter 11 Case
)	
MIRANT AMERICAS ENERGY CAPITAL,)	
LP,	)	Case No. 03-91079-DML
)	
Debtor.)	
_____)	
)	
In re	)	Chapter 11 Case
)	
MIRANT AMERICAS ENERGY CAPITAL	)	Case No. 03-91081-DML
ASSETS, LLC,)	
)	
Debtor.)	
_____)	

**FOURTH MOTION OF THE DEBTORS PURSUANT TO RULE 1015(b) OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE AND N.D. TX L.B.R. 1015.1
FOR ORDER DIRECTING JOINT ADMINISTRATION OF CASES
D-1188744.1**

**FOURTH MOTION OF THE DEBTORS PURSUANT TO RULE 1015(b)
OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND N.D. TX L.B.R.
1015.1 FOR ORDER DIRECTING JOINT ADMINISTRATION OF CASES**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Mirant Debtors”), as debtors and debtors-in-possession, and (i) Mirant Americas Energy Capital, LP, as a debtor and debtor-in-possession, and (ii) Mirant Americas Energy Capital Assets, LLC, as a debtor and debtor-in-possession (collectively, the “New Debtors” and, together with the Mirant Debtors, the “Debtors”) file this Fourth Motion for Entry of an Order Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and N.D. TX L.B.R. 1015.1 directing the joint administration of their respective chapter 11 cases (the “Motion”), and respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), and (O). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The relief requested in the Motion is authorized under Fed. R. Bankr. P. 1015(b) and Local Bankruptcy Rule 1015.1.

PROCEDURAL BACKGROUND

2. The Cases. Commencing on July 14, 2003, and concluding in the early morning hours of July 15, 2003 (the “Initial Debtors’ Petition Date”), each of the Initial Debtors (as defined below) filed a voluntary petition in this Court for relief under title 11 of the United

States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”).¹ On August 18, 2003, Mirant EcoElectrica Investments I, Ltd. and Puerto Rico Power Investments, Ltd. commenced chapter 11 cases under the Bankruptcy Code. On October 3, 2003, the following additional Debtors filed voluntary petitions in this Court for relief under chapter 11: (i) Mirant Wrightsville Management, Inc., (ii) Mirant Wrightsville Investments, Inc., (iii) Wrightsville Power Facility, L.L.C., and (iv) Wrightsville Development Funding, L.L.C. (collectively, the “Wrightsville Debtors”). The Mirant Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. New Debtor Petitions. On November 17, 2003 (the “New Debtors’ Petition Date”), the following Mirant entities filed voluntary petitions in this Court for relief under the Bankruptcy Code: (i) Mirant Americas Energy Capital, LP (“MAEC”) and (ii) Mirant Americas Energy Capital Assets, LLC (“MAECA”). The New Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. The Cases are Jointly Administered. On July 15, 2003, the Court entered the Order Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and N.D. TX LBR 1015.1 Directing Joint Administration of Cases (the “Original Joint Administration Order”), ordering that the estates of Mirant and certain of its subsidiaries with Case Nos. 03-

¹ Concurrently, Mirant caused two of its Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd and Mirant Canada Energy Marketing Investments, Inc. (collectively, the “Canadian Debtors”) to commence plenary insolvency proceedings in the Court of Queen’s Bench of Alberta Judicial District of Calgary (the “Canadian Court”) pursuant to the *Companies’ Creditors Arrangement Act*. The Canadian Debtors are subject to the sole and exclusive jurisdiction of the Canadian Court.

45688 and 03-45690 through 03-45663 (the “Initial Debtors”) be jointly administered. On September 8, 2003, the Court entered the order approving joint administration of the cases of Mirant EcoElectrica Investments, I Ltd., Case No. 03-47927 and Puerto Rico Power Investments, Ltd., Case No. 03-47929 with those of the Initial Debtors. Also on September 8, 2003, the Court granted the motion for an order directing that orders entered in the cases of the Initial Debtors be made applicable to Mirant EcoElectrica Investments, I Ltd. and Puerto Rico Power Investments, Ltd. On October 21, 2003, the Court entered the order approving joint administration of the cases of the Wrightsville Debtors with those of the Initial Debtors. On November 5, 2003, the Court entered an order directing that certain orders entered in the cases of the Initial Debtors be made applicable to those of the Wrightsville Debtors.

5. The Committees. Three official committees have been appointed by the Office of the United States Trustee for the Northern District of Texas in these administratively consolidated cases. Specifically, an official unsecured creditors’ committee and an official committee of equity security holders have been appointed for Mirant Corporation and an official unsecured creditors’ committee has been appointed for Mirant Americas Generation, LLC (collectively, the “Committees”).

FACTUAL BACKGROUND

A. The Debtors’ Business Operations

6. Mirant and its direct and indirect subsidiaries comprise one of the world’s largest generators and marketers of electricity. Through its direct and indirect subsidiaries, Mirant produces, sells and delivers reliable energy products and services to utilities, municipal systems, aggregators, electric-cooperative utilities, producers, generators, marketers and large industrial customers in North America, the Philippines and the Caribbean. Mirant’s core

business centers on the production and sale of electricity and electrical capacity (essentially the ability to produce electricity on demand). Mirant currently owns or controls more than 21,800 megawatts of electric generating capacity around the world, of which more than 18,000 megawatts is located in the United States. In 2002, Mirant produced 73 million megawatt-hours of electricity, sold 312 million megawatt-hours of electricity and sold or marketed an aggregate average of 21 billion cubic feet per day of natural gas.

7. Mirant employs thousands of employees worldwide, some of whom are based at Mirant's corporate headquarters in Atlanta, and most of whom are based at operating facilities. In 2002, Mirant recorded a \$542 million loss in earnings before interest, taxes and depreciation on a consolidated basis. Its 2002 operating revenues were approximately \$6.4 billion.

B. Facts Relevant to the Motion

8. MAEC (f/k/a Southern Producer Services, L.P.) is a limited partnership organized under the laws of Delaware.² After its formation in March of 1999, MAEC engaged in the business of lending money to smaller oil and gas production companies located primarily in Texas and Louisiana that drilled in Texas and Louisiana or offshore on the continental shelf in the Gulf of Mexico. MAEC's relationship to these companies was that of a traditional lender, i.e., MAEC granted loans to the companies and, as collateral, took a security interest in the revenue stream generated pursuant to the companies' production efforts.

² The general partner of MAEC is Mirant Americas Development, Inc., which owns a 1% interest in MAEC. The remaining 99% interest is held by Mirant Americas Energy Marketing Investments, Inc., MAEC's limited partner. Both Mirant Americas Development, Inc. and Mirant Americas Energy Marketing Investments, Inc. are Debtors in these chapter 11 cases.

9. The assets of the New Debtors consist of approximately \$2.4 million of cash in bank accounts held by MAEC. No funding to the New Debtors has been provided by the Mirant Debtors since the Initial Debtors' Petition Date.

10. On or about December 7, 2001, Stroud Investments 2001, Ltd. and Stroud Oil Properties, Inc. (together, "Stroud") filed a lawsuit (the "Brazos Lawsuit") in the 272nd Judicial District Court of Brazos County, Texas (the "Texas State Court") against Predator Development Company, LLC ("Predator"). Stroud had been a borrower under one of the loans made by MAEC and which had been sold to Lehman Commercial Paper, Inc. and H/Z Acquisition Partners LLC. On or about June 16, 2003, Predator filed an Original Third-Party Petition against Mirant, MAEC and MAECA. Mirant subsequently filed for bankruptcy on the Initial Debtors' Petition Date.

11. On or about July 25, 2003, Predator filed a Motion for Severance in the Brazos Lawsuit, requesting that the Texas State Court sever out any and all claims, counterclaims, and/or third-party claims by, between and/or among Stroud, Predator, and MAEC and MAECA and make them the subject of a separate suit thereby leaving the claims involving Mirant stayed and isolated in its own cause. By letter dated August 29, 2003, the Texas State Court denied Predator's Motion for Severance and stated that all claims against Mirant, MAEC and MAECA were stayed pending further order of this Court.

12. On or about September 9, 2003, Predator filed a Motion for Severance of Claims in the Brazos Lawsuit, requesting that the Texas State Court sever out any and all claims and/or counterclaims among Stroud and Predator and make them the subject of a separate suit thereby leaving the claims involving Mirant, MAEC and MAECA stayed and isolated in its own cause. By letter dated October 10, 2003, the Texas State Court denied Predator's Motion for

Severance and stated that all claims against Mirant, MAEC and MAECA remained stayed pending further order of this Court. On November 3, 2003, Predator filed a Motion for Relief from Automatic Stay to Complete Pending State Court Litigation Involving Non-Debtor Entities (the “Lift Stay Motion”).³ The New Debtors determined that their assets (\$2.4 million) should be protected and administered in the orderly fashion provided by chapter 11 of the Bankruptcy Code.

13. Accordingly, in order to allow for the orderly administration of all of the Debtors’ operations, chapter 11 petitions were prepared and filed for the New Debtors. The New Debtors have determined that it is in the best interest of their estates and creditors to file voluntary petitions under chapter 11 of the Bankruptcy Code seeking joint administration with the Mirant Debtors’ pending chapter 11 cases in order to afford these entities, their estates and creditors the same protections enjoyed by the Mirant Debtors.

RELIEF REQUESTED AND BASIS THEREFOR

14. By this Motion, the Mirant Debtors and the New Debtors seek, pursuant to Rule 1015(b) of the Bankruptcy Rules and N.D. TX L.B.R. 1015.1, the joint administration of their chapter 11 cases for procedural purposes only under the same caption for these chapter 11 cases as was previously approved by this Court pursuant to the Original Joint Administration Order.

15. Bankruptcy Rule 1015(b) provides, in relevant part:

³ Concurrently herewith, Mirant has filed an Opposition to the Lift Stay Motion on the ground that the commencement of the New Debtors’ cases stays the entire Brazos Lawsuit.

If a joint petition or two or more petitions are pending in the same court by or against ... a debtor and an affiliate, the court may order a joint administration of the estates.

16. The Mirant Debtors and the New Debtors are “affiliates” as that term is defined in section 101(2) of the Bankruptcy Code. Accordingly, this Court is authorized to grant the relief requested herein. Further, this Court has previously granted similar relief in these and other chapter 11 proceedings. See, e.g., In re CoServ, LLC, Case No. 01-48684 (Bankr. N.D. Tex. Nov. 30, 2001); In re Kevco, Inc., Case No. 01-40783 (Bankr. N.D. Tex. Feb. 12, 2001).

17. Joint administration of the Mirant Debtors’ and the New Debtors’ chapter 11 cases will expedite the administration of these cases and reduce administrative expenses without prejudicing any creditor’s substantive rights. For example, joint administration will permit the Clerk of the Court to utilize a single general docket for these cases and combine notices to creditors of the Debtors’ respective estates and other parties in interest. The Mirant Debtors and the New Debtors anticipate that numerous notices, applications, motions, other pleadings and orders in these cases will affect many or all of the Mirant Debtors and the New Debtors. Joint administration will permit counsel for all parties in interest to include the Mirant Debtors’ and the New Debtors’ respective cases in a single caption on the numerous documents that will be filed and served in these cases. Joint administration also will enable parties in interest in each of the above-captioned chapter 11 cases to be apprised of the various matters before the Court in all of these cases.

18. Because the cases of the Mirant Debtors, together with the cases of the New Debtors, involve numerous debtors with thousands of potential creditors, the entry of an order of joint administration will: (a) significantly reduce the volume of paper that otherwise would be filed with this Clerk of this Court; (b) simplify for the Office of the United States

Trustee the supervision of the administrative aspects of these chapter 11 cases; (c) render the completion of various administrative tasks less costly; and (d) minimize the number of unnecessary delays associated with the administration of numerous separate chapter 11 cases. Additionally, because this is not a motion for the substantive consolidation of the Mirant Debtors' and the New Debtors' estates, the rights of parties in interest will not be prejudiced by the proposed joint administration of these cases because each creditor may still file its claim against a particular estate. In fact, the rights of all creditors will be enhanced by the reduction in costs resulting from the joint administration.

19. The Mirant Debtors and the New Debtors submit that joint administration of the above-captioned cases is in their best interest, as well as those of their respective estates, creditors and other parties in interest.

CONCLUSION

WHEREFORE, the Debtors respectfully request entry of an order directing the joint administration of their respective chapter 11 cases, and granting to the Debtors such other and further relief as is just and proper.

Dated: Fort Worth, Texas
November 18, 2003

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By /s/ Judith Elkin
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**FOURTH MOTION OF THE DEBTORS PURSUANT TO RULE 1015(b) OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE AND N.D. TX L.B.R. 1015.1
FOR ORDER DIRECTING JOINT ADMINISTRATION OF CASES
D-1188744.1**

-and-

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ATTORNEYS FOR THE DEBTORS AND
DEBTORS-IN-POSSESSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing document upon all the attached Service List and upon all persons on the Limited Service List via e-mail, fax or overnight delivery on the 18th day of November, 2003 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Judith Elkin

Service List

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General Electric Company
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re)	
)	
MIRANT CORPORATION, <u>et al.</u>,	)	Chapter 11 Case
)	
Debtors.	)	Case No. 03-46590-DML
	)	Jointly Administered
)	
In re	)	Chapter 11 Case
)	
MIRANT AMERICAS ENERGY CAPITAL, LP,	)	Case No. 03-91079-DML
)	
Debtor.)	
)	
In re	)	Chapter 11 Case
)	
MIRANT AMERICAS ENERGY CAPITAL ASSETS, LLC,	)	Case No. 03-91081-DML
)	
Debtor.)	
)	

**ORDER PURSUANT TO RULE 1015(b) OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE AND
N.D. TX L.B.R. 1015.1 DIRECTING JOINT ADMINISTRATION OF CASES**

Came before the Court the Fourth Motion of the Debtors Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and N.D. TX L.B.R. 1015.1 for Order Directing Joint Administration of Cases (the “Motion”) filed by Mirant Corporation and its affiliated jointly administered debtors (collectively, the “Mirant Debtors”), as debtors and debtors-in-possession, and (i) Mirant Americas Energy Capital, LP, as a debtor and debtor-in-

**ORDER PURSUANT TO RULE 1015(b) OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE AND
N.D. TX L.B.R. 1015.1 DIRECTING JOINT ADMINISTRATION OF CASES
D-1188766.1**

possession, and (ii) Mirant Americas Energy Capital Assets, LLC, as a debtor and debtor-in-possession (collectively, the “New Debtors” and, together with the Mirant Debtors, the “Debtors”) requesting an order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and N.D. TX L.B.R. 1015.1 directing the joint administration for procedural purposes only of the chapter 11 cases of the Mirant Debtors and of the New Debtors, as more fully set forth in the Motion. It appears that the Court has jurisdiction over this matter and that due notice of the Motion has been provided as set forth in the Motion and that no other or further notice need be provided. It further appears that the relief requested in the Motion is in the best interests of the Mirant Debtors, the New Debtors and their estates and creditors. After due deliberation and sufficient cause appearing therefor, it is therefore, hereby

ORDERED that the above-captioned chapter 11 cases be, and they hereby are, consolidated for procedural purposes only and shall be jointly administered by the Court; and it is further

ORDERED that nothing contained in this Order or the Motion shall be deemed or construed as directing or otherwise affecting a substantive consolidation of the above-captioned cases; and it is further

ORDERED that pleadings in the above chapter 11 cases shall be required to bear a caption substantially in the form as previously approved by this Court in the Order Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and N.D. TX LBR 1015.1 Directing Joint Administration of Cases (the “Original Joint Administration Order”) entered by this Court on July 15, 2003 and attached to the Original Joint Administration Order as Exhibit A; and it is further

ORDERED that a docket entry shall be made in each of the New Debtors' cases substantially as follows:

“An order has been entered in this case directing the procedural consolidation and joint administration of Mirant Corporation, Case No. 03-46590, with this case and the docket in Case No. 03-46590 should be consulted for all matters affecting this case.”

Dated: November ____, 2003

HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE

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