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ATTORNEYS FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MIRANT AMERICAS GENERATION, LLC

**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)
)	
Debtors)	Jointly Administered

APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MIRANT AMERICAS GENERATION, LLC FOR AUTHORITY TO EMPLOY E3 CONSULTING AND NEW ENERGY ASSOCIATES, LLC AS ITS ENERGY CONSULTANTS

**TO: THE HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE:**

The Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC, (the "MAGI Committee") hereby applies for an order authorizing its retention of Energy & Environmental Engineering, LLC d/b/a E3 Consulting ("E3") and New Energy Associates, LLC ("New Energy", and collectively with E3, the "Energy Consultants") as energy consultants as of April 5, 2004. In support of this Application, the MAGI Committee respectfully represents as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Application is proper in this judicial district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are

§§ 327, 328 and 1103(a) of Title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors’ cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of this Court.

2. On July 14, 2003 (the “Petition Date”), the Debtors commenced their respective reorganization cases by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* Since the Petition Date, the Debtors have continued to operate their businesses and manage their properties as debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

3. On July 25, 2003 (the “Committee Formation Date”), the MAGI Committee was appointed in these cases by the Office of the United States Trustee. The members of the MAGI Committee are California Public Employees Retirement System (“CalPERS”), Elliott Associates, L.P., JPMorgan Chase, Lehman Brothers Inc., Mackay Shields Financial, The Royal Bank of Scotland and Wells Fargo Bank, as Indenture Trustee.

4. Mirant and its direct and indirect subsidiaries comprise a competitive energy concern that generates and sells electricity in North America, the Philippines and the Caribbean. 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. 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. Mirant employs in excess of 6,700 employees worldwide, of which approximately 1,000 employees are based at Mirant's corporate headquarters in Atlanta, Georgia, and approximately 5,700 employees are based at various other operating facilities. The Debtors have distributed their confidential business plan and subsequently will propose a reorganization plan, which will require analysis of, among other things, debt capacity and enterprise valuation. Accordingly, the MAGI Committee requires the services of experienced energy consultants to analyze and advise it concerning certain unique aspects of the Debtors' business and financial affairs, including projected forward price curves for fuel purchases and electricity sales.

5. Pursuant to § 1103 of the Bankruptcy Code and the Local Bankruptcy Rules, the MAGI Committee wishes to employ and retain E3 and New Energy as an energy consultant team to perform the necessary services described hereinafter as electric power generation technical and business advisors and fuel market modeling consultants. E3 and New Energy are prepared to provide immediate assistance to the MAGI Committee. The MAGI Committee has selected E3 and New Energy because of their experience at a national level in matters of this character and their exemplary qualifications to perform the services required in this case. The retention and employment of E3 and New Energy is in the best interest of creditors and the best interest of the MAGI bankruptcy estate.

6. E3 and New Energy are both well qualified to serve as energy consultants to the MAGI Committee and they will work together to provide separate and complimentary

energy consulting services to the MAGI Committee. E3 specializes in assisting creditors and investors in matters associated with the operation of power plants and power generation businesses. This advice has been provided in workouts and the restructuring of power projects and associated businesses. E3 specializes in analyzing, evaluating and recommending improvements to energy projects and company business operations, reviewing/analyzing power project operations, fuel procurement, power marketing, negotiating restructuring arrangements, business feasibility studies and other relevant issues.

7. New Energy specializes in modeling electric power and fuel markets and has provided these services to investors, and creditors in workouts and restructurings. New Energy's services include forecasting prices for electric energy and capacity, coal and gas fuel for power generators, the cost of environmental emissions allowances, and the dispatching of individual power generators in their relevant markets, through which the revenue and gross margin of these generators is determined.

8. Working together as an energy consultant team, E3 and New Energy will provide the necessary expertise to advise and assist the MAGI Committee concerning the Debtors' energy generation and marketing business. As set forth in detail below, there will be no overlap between the services performed by E3 and New Energy because each will perform distinct advisory functions on behalf of the MAGI Committee. Specifically, E3 provides expertise in the operation and maintenance of electric generating plants, and the management of portfolios of these assets. This expertise includes analyzing business plans and budgets, operating costs, management, power marketing, fuel procurement, and transactions between individual projects and the corporate center. New Energy, on the other hand, develops models of

the electric and fuel markets within which the generators function, and also models the revenue and gross margin expected by individual generators based on the market prices for electric energy, capacity and fuel.

9. To the best of the MAGI Committee's knowledge, information and belief, neither E3 nor New Energy is related to or connected with and neither holds nor represents any interest adverse to the Debtors, their respective estates, their creditors or any other party in interest herein or their respective attorneys or the United States Trustee or anyone employed in the Office of the United States Trustee in the matters for which the Energy Consultants are proposed to be retained, except that the Energy Consultants are connected with the MAGI Committee by virtue of this engagement, and the Energy Consultants may represent or have represented certain of the Debtors' creditors or other parties in interest herein, or interests adverse to such creditors or other parties in interest herein, in matters unrelated to these Chapter 11 cases. Consequently, each of E3 and New Energy is a "disinterested person," as that term is defined in § 101(14) of the Bankruptcy Code and as required by § 1103(b) of the Bankruptcy Code. The Affidavit of Earl Franklin (the "Franklin Affidavit") executed on behalf of E3, and the Affidavit of Norm Richardson (the "Richardson Affidavit") executed on behalf of New Energy in accordance with § 1103(a) of the Bankruptcy Code and Bankruptcy Rule 2014, are appended hereto and incorporated herein by reference. The MAGI Committee's knowledge, information and belief regarding the matters set forth in this paragraph is based, and made in reliance, upon the Franklin and Richardson Affidavits. Both E3 and New Energy have informed the MAGI Committee that they have undertaken a detailed search of available information as set forth below, to determine and to disclose, whether each of them is performing or has performed

services for any significant creditors, equity security holders or insiders in such unrelated matters.

10. In connection with their proposed retention by the MAGI Committee in these cases, E3 and New Energy both conducted a review of their professional contacts with the Debtors, their affiliates and other interested parties identified on a list (“Interested Party List”) provided to E3 and New Energy by counsel in this proceeding. E3 and New Energy ran the Interested Party List through their conflicts database, which is an internal computer database containing names of individuals and entities that are present or recent former clients of E3 and New Energy. E3 and New Energy then reviewed those results. A summary of such relationships is set forth in Schedule 1 to the Franklin Affidavit and Schedule 1 to the Richardson Affidavit. None of the services that were or will be provided in the course of these other engagements: (i) is connected in any way to this proceeding; (ii) will impact or conflict with or be adverse to the rights of the Debtors in this proceeding; and (iii) will compromise either E3’s and New Energy’s ability to continue providing services in this proceeding.

11. E3 and/or New Energy’s former clients and their affiliates, officers, directors, principal shareholders and their respective affiliates may have had relationships with parties in interest in these bankruptcy cases of which E3 and New Energy were not informed or, subsequent to the performance of E3 and New Energy’s services, may have developed relationships with such parties of which E3 and New Energy are unaware.

12. To the best of both E3’s and New Energy’s knowledge and belief, except as set forth in Schedules 1 to the Franklin Affidavit and the Richardson Affidavit, none of E3’s or New Energy’s former clients (including their affiliates, officers, directors, principal

shareholders and their respective affiliates) is connected to the parties-in-interest, as provided by counsel to MAGI Committee.

13. E3 and New Energy will promptly update their Affidavits, disclosing any material developments regarding the Debtors or any other pertinent relationships that require disclosure in the above-referenced case, if and when any such developments or relationships come to their attention.

14. E3 and New Energy have agreed to provide assistance to the MAGI Committee in accordance with the terms and conditions which are set forth in the appended Franklin Affidavit and the Richardson Affidavit filed in support of this application, and as set forth in the E3/New Energy Engagement Letter which is appended to the Franklin Affidavit as Exhibit "A" and incorporated therein by reference.

15. All the services that E3 will provide to the MAGI Committee will be: (i) at the request of the MAGI Committee, (ii) appropriately directed by the MAGI Committee so as to avoid duplicative efforts among the professionals retained in the case, and (iii) performed in accordance with applicable professional standards. It is presently anticipated that E3 will provide the following services:

- a. Provide strategic advice with respect to energy industry specific issues in these chapter 11 cases;
- b. Analyze technical aspects of the Debtors' business plans and models, with a particular emphasis on the Debtors' energy business plans;
- c. Analyze the Debtors' energy business strengths, weaknesses and risks from the creditors' viewpoint;
- d. Provide advice on restructuring issues and options;

- e. Provide power marketing advice and analysis with respect to the Debtors' management, credit policy, hedging contracts and credit support;
- f. Provide advice on the Debtors' asset management and business infrastructure;
- g. Provide other services as requested by the MAGI Committee.

16. Similarly, all the services that New Energy will provide to the MAGI Committee will be: (i) at the request of the MAGI Committee, (ii) appropriately directed by the MAGI Committee so as to avoid duplicative efforts among the professionals retained in the case, and (iii) performed in accordance with applicable professional standards. It is presently anticipated that New Energy will provide the following services:

- a. Provide commodity price assumptions, energy and capacity prices and fuel emission allowance price forecasts;
- b. Model commodity prices in relevant regions;
- c. Assist in developing fundamental models to forecast electric prices and plant performance;
- d. Provide other services as requested by the MAGI Committee.

17. The decision of E3 and New Energy to accept this engagement to advise and assist the MAGI Committee is contingent upon their ability to be retained in accordance with their customary terms and conditions of employment and compensated for their services and reimbursed for the out-of-pocket expenses they incur in accordance with its customary billing practices which are outlined in the appended Affidavits filed in support of this Application.

18. E3 and New Energy understand and accept that the terms of their employment must be approved by the Bankruptcy Court and that the fees they will ultimately receive will be allowed by the Bankruptcy Court. However, E3 and New Energy would prefer to

resolve, at this time, any objections by the Bankruptcy Court or other parties in interest, with respect to their billing practices, including their billing rates and methods of charging expenses.

19. The MAGI Committee seeks the retention of each E3 and New Energy pursuant to this application to work in tandem in connection with the energy consulting services described above. Specifically, as set forth in the E3/New Energy Engagement Letter which is appended to the Franklin Affidavit as Exhibit "A", New Energy will be engaged as E3's subconsultant in the area of power and fuel market modeling. Thus, E3 will submit joint fee statements on behalf of both E3 and New Energy. Such fee submissions will set forth the separate fees charged, and specifically describe the services performed by each of the professionals employed by E3 and New Energy with respect to this engagement. Each monthly fee statement will separately request 80% of E3's total monthly fees and 80% of New Energy's total monthly fees with a hold back of 20% of the total fees for each of E3 and New Energy. There will be no fee sharing between E3 and New Energy.

20. Accordingly, both E3 and New Energy have chosen to be very explicit in setting forth in the appended Affidavits the terms and conditions of their employment, staffing and approach and billing practices, and has requested that the MAGI Committee seek this Court's approval of such matters contemporaneously with the filing of this Application.

21. No previous application for the relief requested herein has been made in these chapter 11 cases.

WHEREFORE, the MAGI Committee respectfully requests that the Court enter an order in the form attached hereto, permitting the MAGI Committee to employ E3 and New Energy in these cases as of April 5, 2004, approving the above-referenced billing practices and other terms and conditions of employment and granting such other and further relief as the Court deems just and proper.

Dated: April 20, 2004

Respectfully submitted,

COX & SMITH INCORPORATED
112 E. Pecan Street, Suite 1800
San Antonio, Texas 78205
Telephone: (210) 554-5000
Facsimile: (210) 226-8395

By: /s/ Thomas Rice
Thomas Rice
Texas Bar No. 24025613

AND

CADWALADER, WICKERSHAM & TAFT LLP
100 Maiden Lane
New York, New York 10038
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Facsimile: (212) 504-6666

**ATTORNEYS FOR THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS OF MIRANT
AMERICAS GENERATION, LLC**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 20, 2004, a true and correct copy of the forgoing has been sent via electronic mail to the parties listed below and via United States First Class Mail, postage prepaid, to the parties listed on the Official Shortened Service List (3/17/04).

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/s/ Thomas Rice
Thomas Rice

Trustee, or holds or represents any interest adverse to any such party. E3 may represent or have represented certain of the Debtors' creditors or other parties in interest herein, or interests adverse to such creditors or other parties in interest herein, in matters unrelated to these cases. None of the services that were or will be provided in the course of these other engagements (i) is connected in any way to this proceeding; (ii) will impact or conflict with or be adverse to the rights of the Debtors in this proceeding; and (iii) will compromise E3's ability to continue providing services in this proceeding.

4. In connection with the preparation of this Affidavit, E3 conducted a review of its professional contacts with the Debtors, their affiliates and other interested parties identified on a list ("Interested Party List") provided to E3 by counsel to the MAGI Committee in this proceeding. E3 ran the Interested Party List through their internal database containing names of individuals and entities that are present or recent former clients of E3. E3 then reviewed those results. A summary of such relationships is set forth in Schedule 1 to this Affidavit.

5. It should be understood that E3's former clients and their affiliates, officers, directors, principal shareholders and their respective affiliates may have had relationships with parties in interest in these bankruptcy cases of which E3 was not informed or, subsequent to the performance of E3's services, may have developed relationships with such parties of which E3 is unaware.

6. To the best of E3's knowledge and belief, except as set forth in Schedule 1 to this Affidavit, none of E3's former clients (including their affiliates, officers, directors, principal shareholders and their respective affiliates) is connected to the parties-in-interest, as provided to us by counsel to the MAGI Committee.

7. E3 will promptly update and supplement this Affidavit, disclosing any material developments regarding the Debtors or any other pertinent relationships that require disclosure in the above-referenced case, if and when any such developments or relationships come to E3's attention.

8. E3 has agreed to provide assistance to the MAGI Committee in accordance with the terms and conditions set forth herein, in the Application and in the Engagement Letter which is appended hereto as Exhibit "A" and incorporated herein by reference (the "Engagement Letter"). Accordingly, I make this Affidavit in support of an order authorizing such retention.

9. All the services that E3 will provide to the MAGI Committee will be: (i) at the request of the MAGI Committee, (ii) appropriately directed by the MAGI Committee so as to avoid duplicative efforts among the professionals retained in the case, and (iii) performed in accordance with generally accepted professional standards. It is presently anticipated that E3 will provide the following services:

- (a) Provide strategic advice with respect to energy industry specific issues in these chapter 11 cases;
- (b) Analyze technical aspects of the Debtors' business plans and models, with a particular emphasis on the Debtors' energy business plans;
- (c) Analyze the Debtors' energy business strengths, weaknesses and risks from the creditors' viewpoint;
- (d) Provide advice on restructuring issues and options;
- (e) Provide power marketing advice and analysis with respect to the Debtors' management, credit policy, hedging contracts and credit support;
- (f) Provide advice on the Debtors' asset management and business infrastructure;
- (g) Provide other services as requested by the MAGI Committee.

Qualifications

10. E3 specializes in assisting creditors and investors in matters associated with the operation of power plants and power generation businesses. This advice has been provided in workouts and the restructuring of power projects and power generation businesses. E3's services have included analyzing, evaluating and recommending improvements to energy projects and company business operations, reviewing/analyzing power project operations, fuel procurement, power marketing, negotiating restructuring arrangements, business feasibility studies and other relevant issues. E3 has been retained by numerous bondholders and lenders for due diligence reviews of power projects. A statement setting forth E3's qualifications is attached hereto as Exhibit "B."

Staffing and Approach

11. A substantial portion of E3's work is advisory and involves E3's professionals counseling senior client personnel regarding high-level strategic and tactical issues. Consistent with its relatively unique practice, E3's professional staff consists of accomplished professionals and senior industry practitioners. Indeed, E3's professional staff averages in excess of twenty-five years of relevant business experience. Both E3's internal structure and work approach are designed around its unusual staff composition of senior professionals. Individual staff members are assigned project roles, to bring to bear their particular talents and experience in view of the specific requirements of the engagement. E3 provides high value for its fees, efficiently leveraging its experienced professionals regarding the informational requirements of the MAGI Committee.

12. I, Earl Franklin, will be primarily responsible for this engagement and I have more than 30 years of diversified business and professional experience. I will be responsible for the overall design of E3's services and direction of the engagement team.

Billing Practices

13. E3 will seek compensation for its services as described herein and in the Application in accordance with its customary practices and with the guidelines of this Court and in compliance with the applicable provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy procedure, the Local Bankruptcy Rules, the administrative order pertaining to professionals retained in these proceedings and any other orders of this Court. E3 charges fees based on actual hours expended to perform its services at standard hourly rates established for each employee, as adjusted semi-annually. It is the customary practice of the Firm to bill clients for travel time consistent with guidelines of the jurisdiction. Time entries are recorded in six minute increments. Fees reflect economies resulting from the use of paraprofessional and support personnel to develop schedules and analyses, input computer data, perform research, work on fee applications, and other activities necessary to the efficient administration of a case. So as not to burden clients who do not require such services, E3 does not include support services in the Firm's overhead for the purpose of establishing billing rates. Billing rates are generally representative of prevailing market rates, as awarded by other Courts in similar circumstances, for practitioners providing such services at a national level who have comparable skill and experience. The billing rates for professionals who may be assigned to this engagement in effect as of April 1, 2004, are as follows:

	<u>Per Hour</u>
Executive Consultants	\$350-400
Professional Staff	\$200-350
Professional Assistants	\$50-150

My billing rate is \$400 per hour.

14. It is E3's practice to utilize the professional services of New Energy Associates, LLC ("New Energy") for support in the area of developing fundamental models to forecast electric prices and plant performance. As set forth in the Engagement Letter, New Energy will act as E3's contractor in this area. Thus, E3 will submit joint fee statements on behalf of both E3 and New Energy. Such fee submissions will set forth the separate fees charged, and specifically described the services performed by, each of the professionals employed by E3 and New Energy with respect to this engagement. Each monthly fee statement will separately request 80% of E3's total monthly fees and 80% of New Energy's total monthly fees with a hold back of 20% of the total fees for each of E3 and New Energy. There will be no fee sharing between E3 and New Energy.

15. E3 reserves the right to seek court approval for additional compensation in circumstances where extraordinary results may warrant such additional compensation.

16. E3 charges its clients only for reasonably incurred, out-of-pocket expenses associated with an assignment including, but not limited to, costs of reproduction, any applicable state sales or excise taxes and other direct expenses. E3 will comply with any applicable Administrative Order and with all rules with respect to the reimbursement of professionals in this case.

17. No fee payable to any other person or entity by the Debtors, the MAGI Committee or any other party shall affect any fee payable to E3 under E3's retention.

18. Invoices for services rendered and out-of-pocket expenses incurred during each month will be submitted pursuant to the *Memorandum Order Consolidating Certain Professional*

Fee Orders entered by the Court on January 20, 2004. In addition, such fees will be payable as allowed under the Bankruptcy Code.

/s/ Earl Franklin
EARL FRANKLIN

SWORN AND SUBSCRIBED to before
me this 19th day of April, 2004.

/s/ Judy L. Schaap
NOTARY PUBLIC in and for the
State of Montana
Commission Expiration: November 12, 2006



C o n f i d e n t i a l

April 5, 2004

To the Official Committee of Unsecured Creditors of
Mirant Americas Generation, LLC
C/O Bruce R. Zirinsky
Cadwalader, Wickersham & Taft LLP
100 Maiden Lane
New York, NY 10038

Dear Committee Members:

This letter confirms the engagement of Energy and Environmental Engineering, LLC, a Colorado limited liability company d/b/a E3 Consulting (“E3”) as electric power generation technical and business advisors to the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC (“MAGI”(the “MAGI Committee”). Additionally, we confirm the simultaneous engagement of our subconsultant New Energy Associates (“New Energy”) as advisors on power and fuel market modeling (collectively with E3, the “Energy Consultants”).

Contingent upon approval of our retention by the Bankruptcy Court, the Energy Consultants agree to provide the services described below in accordance with applicable standards of our professions, our customary terms and conditions of engagement, compensation for services and reimbursement for out-of-pocket expenses. These customary billing practices are detailed in the Affidavit of Earl H. Franklin to which this engagement letter is appended. Accordingly, until the requisite approval of the Bankruptcy Court has been obtained, we will not perform any services hereunder.

All the services that the Energy Consultants will provide to the MAGI Committee will be: (i) at the request of the MAGI Committee, (ii) appropriately directed by the MAGI Committee so as to avoid duplicative efforts among the professionals retained in the case, and (iii) performed in accordance with applicable standards of our profession.

It is presently anticipated that E3 will provide the following services:

- (a) Provide strategic advice with respect to energy industry specific issues in these chapter 11 cases;
- (b) Analyze technical aspects of the Debtors’ business plans and models with a particular emphasis on the Debtors’ energy business plans;

- (c) Analyze the Debtors' energy business strengths, weaknesses and risks from the creditors' viewpoint;
- (d) Provide advice on restructuring issues and options;
- (e) Provide power marketing advice and analysis with respect to the Debtors' management, credit policy, hedging contracts and credit support;
- (f) Provide advice on the Debtors' asset management and business infrastructure;
- (g) Provide other services as requested by the MAGI Committee.

It is presently anticipated that New Energy will provide the following services:

- (h) Provide commodity price assumptions, energy and capacity prices, and fuel emission allowance price forecasts;
- (i) Model commodity prices in relevant regions;
- (j) Assist in developing fundamental models to forecast electric prices and plant performance;
- (k) Provide other services as requested by the MAGI Committee.

In addition to the services enumerated above, as requested by the MAGI Committee and to the extent appropriate, the Energy Consultants will participate in meetings and discussions with the Debtors, other creditor constituencies, and with their respective professionals. It is our intention to work closely with the MAGI Committee throughout our engagement. Regular discussions with the MAGI Committee of our engagement should facilitate our progress, enable the MAGI Committee to appropriately direct our efforts so as to avoid duplicative efforts among the professionals retained in the case, and provide the MAGI Committee with relevant information and an ongoing opportunity to confirm or request that we modify the scope of our engagement to best serve the MAGI Committee's objectives. We intend to coordinate closely with the MAGI Committee's other advisors to maintain a free flow of information and avoid duplication of effort. We will provide periodic oral and/or written reports summarizing our work pursuant to this engagement letter at your direction.

Both the Energy Consultants agree that all information not publicly available and received by us from the Debtors, the MAGI Committee or the MAGI Committee's counsel in connection with this engagement will be treated confidentially in accordance with the Order Approving Specified Information Blocking Procedures and Permitting Trading in the Debtors' Securities, Bank Debt, Purchase or Sale of Trade Debt and Issuing of Analyst Reports Upon Establishment of A Screening Wall Effective July 25, 2003 (the "Screening Wall Order" entered by the Bankruptcy Court on August 13, 2003).

It is the intention of the Energy Consultants to seek compensation for their services as described herein and in the application of the MAGI Committee in accordance with its customary practices and in accordance with the guidelines of this Court and in compliance with the

applicable provisions of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy procedure, the Local Bankruptcy Rules, the administrative order pertaining to professionals retained in these proceedings and any other orders of this Court. E3 will submit joint fee statements on behalf of both E3 and New Energy consistent with the guidelines of the jurisdiction. Such fee submissions will set forth the separate fees charged, and specifically describe the services performed by, each of the professionals employed by E3 and New Energy with respect to this engagement. Each monthly fee statement will separately request 80% of E3's total monthly fees and 80% of New Energy's total monthly fees with a hold back of 20% of the total fees for each of E3 and New Energy. There will be no fee sharing between E3 and New Energy.

The Energy Consultants charge fees based on actual hours expended to perform their services at standard hourly rates established for each employee, as adjusted semi-annually. It is the customary practice of the Energy Consultants to bill clients for travel time consistent with guidelines of the jurisdiction. Fees reflect economies resulting from the use of paraprofessional and support personnel to develop schedules and analyses, input computer data, perform research, work on fee applications, and other activities necessary to the efficient administration of a case. So as not to burden clients who do not require such services, the Energy Consultants do not include support services in their overhead for the purpose of establishing billing rates. Billing rates are generally representative of prevailing market rates, as awarded by other Courts in similar circumstances, for practitioners providing such services at a national level who have comparable skill and experience.

The hourly billing rates for E3 professionals who may be assigned to this engagement in effect as of April 1, 2004 are as follows:

Executive Consultant	\$350 to \$400
Professional Staff	\$200 to \$350
Professional Assistants	\$50 to \$150

The hourly billing rate for Earl Franklin is \$400 effective April 1, 2004

The hourly billing rates for New Energy professionals who may be assigned to this engagement in effect as of April 1, 2004 are as follows:

Senior Executive	\$440
Director	\$350
Professional Staff	\$180 to \$320
Professional Assistants	\$85 to \$125

We reserve the right to seek court approval for additional compensation in circumstances where extraordinary results may warrant such additional compensation.

The Energy Consultants charge their clients only for reasonably incurred, out-of-pocket expenses associated with an assignment including, but not limited to, costs of reproduction, typ-

ing, any applicable state sales or excise taxes and other direct expenses. Except as necessary to comply with an applicable Administrative Order, all such expense billings are in accordance with customary practices.

The Energy Consultants maintain contemporaneous records of the time expended and out-of-pocket expenses incurred in support of its billings for services. All such records are located in the Energy Consultants offices and are available for inspection, subject to certain matters contained therein that may be privileged.

The MAGI Committee acknowledges and agrees that the hours worked, the results achieved and the ultimate benefit to the parties represented by the MAGI Committee of the work performed in connection with this engagement may be variable and that the MAGI Committee and the Energy Consultants have taken this into account in setting the fees hereunder. No fee payable to any other person or entity by the Debtors, the MAGI Committee or any other party shall affect any fee payable to the Energy Consultants hereunder.

Invoices for services rendered and out-of-pocket expenses incurred during each month will be submitted pursuant to the *Memorandum Order Consolidating Certain Professional Fee Orders* entered by the Court on January 20, 2004. In addition, such fees will be payable as allowed under the Bankruptcy Code.

The MAGI Committee agrees that if any of the employees of E3 or New Energy is required to testify at any administrative or judicial proceeding relating to this matter, we will be compensated for our associated time charges at our regular hourly rates, in effect at the time, and reimbursed for reasonable out-of-pocket expenses.

We confirm that to the best of our knowledge and belief, insofar as we have been able to ascertain after due inquiry, none of the employees of E3 or New Energy is related to the Debtors, their creditors, other parties in interest in the pending proceedings, or the United States Trustee or anyone employed in the Office of the United States Trustee, or holds or represents any current interest adverse to any such party, except that the Energy Consultants are connected with the MAGI Committee by virtue of this engagement, and the Energy Consultants may represent or have represented certain of the Debtors' creditors or other parties in interest in the proceedings, or interests adverse to such creditors or other parties in interest, in matters unrelated to the Debtors' bankruptcy cases.

In connection with the preparation of this engagement letter, the Energy Consultants conducted a review of their professional contacts with the Debtors, their affiliates and other interested parties identified on a list ("Interested Party List") provided to the Energy Consultants by counsel to the MAGI Committee in this proceeding. The Energy Consultants ran the Interested Party List through their internal database containing names of individuals and entities that are present clients of the Energy Consultants. The Energy Consultants then reviewed those results. A summary of such relationships is set forth in Schedule 1 of the Affidavit. None of the services that were or will be provided in the course of these other engagements: (i) is connected in any way to this proceeding; (ii) will impact or conflict with or

be adverse to the rights of the Debtors in this proceeding; and (iii) will compromise E3's or New Energy's ability to continue providing services in this proceeding.

It should be understood that E3's and New Energy's clients and their affiliates, officers, directors, principal shareholders and their respective affiliates may have had relationships with parties in interest in these bankruptcy cases of which E3 or New Energy were not informed or, subsequent to the performance of E3's and New Energy's services, may have developed relationships with such parties of which E3 or New Energy is unaware.

To the best of the Energy Consultants' knowledge and belief, except as set forth in Schedule 1 of the Affidavits, none of their current clients (including their affiliates, officers, directors, principal shareholders and their respective affiliates) is connected to the parties-in-interest, as provided to us by counsel to the MAGI Committee.

The Energy Consultants will promptly update and supplement this information, disclosing any material developments regarding the Debtors or any other pertinent relationships that require disclosure in the above-referenced case, if and when any such developments or relationships come to their attention.

The Energy Consultants shall be deemed a Protected Professional and/or Protected Person, as defined in the Order Restricting Pursuit of Certain Persons entered by the Bankruptcy Court on August 5, 2003.

The MAGI Committee agrees that neither it nor any of its assignees or successors shall (a) seek a jury trial in any lawsuit, proceeding, counterclaim or any other action based upon, or arising out of or in connection with the engagement of the Energy Consultants by the MAGI Committee or any services rendered pursuant to such engagement, and (b) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this subsection any special, exemplary or punitive or consequential damages.

If any provision of this engagement letter is invalid or unenforceable, the remainder of this engagement letter shall not be affected.

Notwithstanding anything to the contrary contained herein, the Energy Consultants shall have the right to disclose its retention by the MAGI Committee or the successful completion of its services hereunder in advertisements describing its services placed, at its own expense, in financial and other newspapers or otherwise.

We appreciate this opportunity to work with you on this engagement. Please return a copy of this engagement letter, signed in the space provided to signify your agreement with the terms and provisions herein. If you have any questions, please call Earl Franklin at 406.582.4144 or Don Hurd at 303.762.7063.

Very truly yours,

ENERGY AND ENVIRONMENTAL
CONSULTANTS, LLC, d/b/a E3 CONSULTING

/s/ Earl Franklin
EARL FRANKLIN

NEW ENERGY ASSOCIATES

/s/ Norm Richardson
NORM RICHARDSON

Acknowledged and agreed:

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF MIRANT AMERICAS GENERATION, LLC

By: /s/ Charles Greer
CHARLES GREER
Co-Chairperson of the
Official Committee of
Unsecured Creditors of Debtors

Firm Profile

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Introduction

Success for you, your projects, and your business depends on sound judgment.

And when your best judgment needs specialized support, you expect more from a consultant than confirmation of what you already know. You want new, expanded information to make better-informed decisions.

That's where E3 Consulting excels. Educated and experienced in business and engineering disciplines, we're business people first. We'll listen to your concerns – and grasp their business context. Then we'll look beyond the obvious to deliver solid solutions that make sense for your objectives.

E3 team members average 20 years in their fields. That depth, backed by commitment, experience, and insight, sets us apart. Please explore the pages of this Firm Profile to learn more about our services and our people, and see if you don't agree.

Services

E3 helps our clients solve technical and business challenges from initial project concept through divestiture or de-commissioning. Our services, described in detail on the following pages, include:

■ **Project Renewal**

- Turnaround
- Operating Facility Assessments – Plant
- Operating Facility Assessments – Management

■ **Due Diligence**

- Independent Engineering Reviews
- Construction Monitoring
- Acquisition and Divestiture Assistance

■ **Environmental**

- Permitting and Licensing
- Compliance and Management Systems

■ **Infrastructure Planning**

- Transportation Planning
- Recreation Planning
- Water Resource Economics

■ **Owners Engineering**

- Contract Development
- Technical Support
- Construction Management



Project Renewal

Rapidly changing market and regulatory conditions have forced many project owners to re-structure debt, alter permit requirements, upgrade facilities, reorganize operations staffs, re-work contractual relationships – and even change their entire business model. E3's experience in project financing, development, construction, and operations, complemented by our unique technical and financial expertise, allows us to find optimal solutions for project lenders and owners. We use the term *project renewal* to reflect our work related to workout, restructuring, turnaround, and restoration to financial viability of distressed assets.

Turnaround

Successfully shepherding a project through financing is just the first step. Market conditions might change rapidly during or after construction. Or perhaps the off-taker or shippers are no longer financially viable, market prices will not support the debt load, or the partners in the ownership group can no longer provide the required financial backing.

E3 can help you get a project back on track by providing a seasoned team tailored to your specific needs. The services we provide include:

- Contract development and negotiation services. These services include developing new contracts with new project entities, as well as renegotiating existing contracts under a restructured project.
- Financial modeling using probabilistic analysis. Our clients have found this approach invaluable as they assess the relative merits and risks associated with alternative restructuring approaches. Our financial modeling technique yields a range of potential

outcomes and an expected value associated with that range.

- Management and technical reviews, with particular emphasis on the effectiveness of the asset management and power marketing functions, facility operability and condition, and the capital expenditures required to restore the asset to optimum condition.
- Environmental safety and health review to determine the effectiveness of current compliance programs, possible regulatory exposure, and the potential impacts of new regulations. We'll determine the transferability of the major project permits and let you know of any impact a delay or suspension of project operations will have on the project's permits. We can also conduct a Phase I environmental site assessment to determine whether the restructured project will be subject to ongoing environmental liabilities.

Case Study

Removing the Shadow of Doubt: Restructuring Distressed Assets

CHALLENGE In today's volatile energy and industrial markets, the financial conditions under which a project is developed and financed can change dramatically at a moment's notice. Such change can be unnerving at best and devastating at worst for project owners and lenders. For these clients, accurate, insightful information is at a premium. Our clients have found that E3's unique combination of talented personnel allow us to provide timely, constructive advice in a calm, reasoned manner. *(Continued on page 5)*

- Review of third-party market assessments to provide an independent approach to financial projections of the facility's future economic viability.
- If construction is suspended, we can provide a detailed assessment of the practices used by the construction contractor to protect the facility's equipment, piping, structures, and electrical components. Appropriate construction suspension methods can ultimately save a

project millions of dollars in unnecessary rework and damage once construction resumes.

Operating Facility Assessments – Plant

As the result of federal and state initiatives, the electric power industry is moving into an increasingly deregulated marketplace in which prices are determined by competitive forces, not federal and state control. Technology has advanced as well, and failure to keep pace – operationally as well as technologically – can compromise a plant's financial performance or its appeal to prospective buyers.

E3 assists project lenders, investors, and owners with asset management, acquisition, or divestiture of operating facilities by evaluating current or past operating and maintenance practices and the future plans for a single facility or portfolio of facilities through:

- Assessment of a project's ongoing capability to meet pro forma financial projections
- Analysis of the O&M culture and organizational practices
- Review of annual budget, operating procedures, practices, staffing, and training for reasonableness and compliance with project documents and operating requirements
- Facility operability and condition review
- Comparison of a facility's current operating and maintenance practices with best practices standards
- Assessment of plant design and its economic effects
- Review of staffing plan, including training and development, multi-tasking potential, and productivity enhancements
- Identification of recurring, unresolved, or likely technical problems that may materially affect future

performance or require significant capital investment

- Environmental and regulatory compliance monitoring
- Assessment of potential effects of proposed changes in operating regimes, fuel supply, environmental regulations, or physical changes to the facility

Operating Facility Assessments – Management

The business management systems used in many power plants are still based on historical regulatory constraints that hinder their ability to succeed in a vastly changed business environment. We help plant management and staff of new or existing facilities scrutinize their current programs and systems, design new or improved methods and training, and implement programs that achieve superior plant reliability, efficiency, flexibility, and longevity – while achieving the lowest overall cost.

With objectivity, creativity, common sense – and an eye on your bottom line, E3 can help you put in place world-class programs and processes for:

- Asset stewardship
- Procedure development and use
- Multi-disciplinary staffing
- Profit- and performance-based incentive plans
- Regulatory compliance
- Cost management and productivity improvement
- Self-performance audits
- Equipment maintenance
- Periodic outages
- Equipment operation
- Plant equipment performance testing
- Knowledge management and IT systems to support operations and maintenance
- Purchasing and warehousing
- Identifying and implementing capital improvements

Distressed Asset Restructuring, Continued

As an example, one of our lender clients asked E3 to help one of their troubled projects avoid bankruptcy. Our initial scope of work involved an evaluation of short-term project cash flow. Our work quickly expanded into a comprehensive restructuring effort.

A P P R O A C H At first, our client only wanted us to verify short-term expenses and revenue expenditure forecasts. But it soon became obvious that the client needed not only a consultant, but a business partner to help the project deal with a variety of troublesome issues. At that point, we conducted a brief overview of the entire project for the client: operations, permits, contracts, cost and revenue forecasts, fuel supply strategies, and offtake marketing arrangements. That high-level review of the project confirmed our client's suspicion that the project was in need of a comprehensive restructuring, and they sought our help in that effort as well.

S O L U T I O N First, we created a flexible financial model for the project. We made sure our model could accommodate the economic impact of a variety of our client's potential decisions.

Because the client no longer trusted the advisors he had engaged during the initial project financing, he asked E3 review the project's power market situation, the condition of the facility's equipment, and its environmental permitting situation. As a result of our review, the client learned that the project's operations and performance could be improved by implementing our recommended organizational changes and new maintenance procedures.



We were also able to protect the client against an air permit liability through proactive discussions with the state Department of Environmental Quality.

Finally, we helped the client negotiate new offtake agreements and fuel supply agreements that enhanced the project's ability to compete in a difficult market environment.

R E S U L T The measures we recommended and implemented enabled the project to realize sustained, positive cash flow within five months of our initial assignment. We then assisted our client in the marketing and sale of the project to an energy company. Our client received an unexpectedly high price for the asset and has since retained us to perform similar services on another energy project.

Due Diligence

Lenders and sponsors alike must thoroughly understand the interrelationships among a project's many components so that risks arising from technical and financial assumptions associated with the construction and operation of the facility can be mitigated. Due diligence entails the independent review of the engineering and environmental aspects of a project for possible impacts on commercial and financial matters associated with the venture.

Independent Engineering Reviews

- Site suitability
- Primary processes and major equipment
- Primary documents, contracts, and agreements
- Financial pro forma
- Performance guarantees and testing regime
- Construction costs and schedule
- Operations and maintenance plans and budgets
- Risk management programs
- Environmental permitting and regulatory requirements
- Supply of off-site commodities including fuel supply, water, and power
- Delivery of produced commodities

You will also benefit from the strong, continuing relationships we have developed with trustees, rating agencies, and major institutional investors. The E3 team has performed due diligence reviews for commercial bank loans and bond financings. We have participated in presentations to the rating agencies (Standard and Poor's, Duff & Phelps, Moody's and Fitch) as well as "road show" presentations to potential investors.

Case Study

Due Diligence/Project Financing: Performance Under Pressure

C H A L L E N G E Once constructed, an oil or gas pipeline is dispatched according to the needs of suppliers, shippers, and consumers. As a result, the pipeline company does not control when and how its customers use the pipeline. That means the conventional approaches to testing a new pipeline's capacity may not always be the most practical ones. *(Continued on page 8)*

Construction Monitoring

During construction of a new facility or modification of an existing one, successful, timely completion depends on identifying and correcting obstacles to progress.

Our construction monitoring services are typically performed in tandem with our due diligence services for new projects:

- Progress confirmation based on schedule and milestones
- Commodity and labor-hour tracking
- Verification that construction is in conformance with plans and specifications
- Certification of monthly construction loan draw-down payments
- Development of performance testing procedures
- Change order review and approval
- Witness, confirm, and certify successful completion of performance testing
- Verification of various completion events defined in the construction agreement
- Certification of construction completion and final acceptance

Acquisition and Divestiture Assistance

As energy companies position themselves to take advantage of the progressive deregulation of energy markets, the acquisition and divestiture of assets becomes even more critical to the overall success of your strategic plan. But transactions today are taking place in a precarious marketplace, so it's imperative that you get timely, accurate, independent information to support the purchase or sale of energy assets.

For owners, lenders, lessors, and others, E3 can provide complete asset valuations related to power, oil and gas, and industrial asset acquisition, and financing. You'll receive an in-depth assessment of the value of energy assets; the financial, technical, and environmental risks inherent in those assets; and the upside potential they may afford. We can also help you determine the market value of a property.

Our acquisition and divestiture services include:

- Transformation management
- Labor strategy
- O&M cost evaluation and optimization
- Identification of risks associated with fuel supply and off-take contracts
- Asset packaging
- Asset valuation
 - Traditional valuations using the cost, income, and market value approaches
 - Asset inventory, separation, and classification for lease or tax purposes
 - Determination of residual or salvage value
 - Physical inspection to assess condition, modification requirements, and remaining useful life
 - Identification of potential markets or purchasers for specific assets
 - Thermal cycle mass and energy balance development

Performance Under Pressure, *Continued*

Many lending institutions have extensive experience in financing power projects but limited experience in financing oil and gas projects. As a result, our clients' needs have challenged us to establish new approaches and new standards for conducting due diligence reviews on oil and gas and pipeline project financing. Those solutions have often become incorporated into future project evaluations as standard financing practice.

For example, a pipeline company was seeking financing for its latest major pipeline installation but needed a performance test protocol to verify the capacity of the pipeline for the lender. The lender and the pipeline company engaged E3 personnel to develop a detailed performance test protocol.

However, a test of the pipeline's full capacity would not only be expensive for the pipeline company, it would likely delay the financial closing, an unacceptable consequence for both the pipeline company and the lender. Our objective was to protect the lender while offering a pragmatic solution for the pipeline company.

APPROACH When designing the test protocol, we asked: "Is a full capacity test of the pipeline in the best interests of the project financing, the lender, and the pipeline company – or is there a better way?"



We believed there was a indeed a better way that would yield the desired result – a reliable assessment of investment risk. We designed a performance protocol to test individual compressors at maximum compressor load during expected, partial-capacity pipeline load conditions. We then developed an independent hydraulic model to determine whether the tested operation of the individual compressors would support full-capacity operation of the pipeline.

SOLUTION Our testing showed that if the pipeline could not achieve its overall design capacity, the risk to the lenders would be increased compression cost. All parties agreed that such a risk was manageable and well within the parameters of their financing arrangements. Thus, the cost of additional compression was included as a capital contingency item for the pipeline prior to project closing.

RESULT Our scaled-back performance test successfully demonstrated compressor capacity and associated maximum pipeline capacity. The lenders were protected from the consequences of unsuccessful testing, and the pipeline company was spared the expense of unnecessary performance testing. As a result, they closed the financing package without delay, instead of waiting months for the pipeline to ramp up to full capacity.

Owners Engineering

Once a project owner has successfully acquired a site and gained all necessary regulatory approvals, a crucial phase of project development begins. E3 excels at both the business and technical aspects of owners engineering, as described below.

Contract Development

E3 has extensive, hands-on experience in developing and negotiating tolling agreements, power sales agreements, EPC contracts, fuel supply agreements, and O&M agreements. Our team goes beyond a typical design firm's owners engineering scope of work by focusing on:

- Developing contract terms that are financeable, easily administered, and clearly define the roles and responsibilities of the project participants
- Developing detailed technical and commercial requests for proposals (RFP) for the EPC contractor, major equipment, and O&M contractor bids
- Reviewing RFP responses, including design approach; adequacy of equipment selection; and operability, maintainability, and reliability

Case Study

Owners Engineering: A Delicate Balance

CHALLENGE Our client was in the process of a difficult EPC contract negotiation for a power project and asked E3 to help. The client also wanted us to be their site representative during construction because of a shortage of personnel within their organization. We knew at the outset that we were entering a delicate situation. Although both our client and the EPC contractor were eager to begin construction, each party had developed animosity and distrust for the other. Could E3 improve the situation with a fresh approach that served the best interests of the project and yielded a well-balanced EPC contract. *(Continued on page 11)*

Technical Support

From mass and energy balances to technical design and environmental permitting support, project owners need conceptual planning and detailed design advice from team members they can count on. E3 is unique in that we consider both the financial *and* technical implications of our work for your project while serving you as owner's engineer.

E3 specialists in mechanical, electrical, civil, petroleum, and chemical engineering, as well as our construction, scheduling, budgeting, and O&M staff, stand ready to fully support your technical needs. Their varied professional experience enables E3 staff to devise creative solutions that balance the technical and financial considerations for developing a successful project by:

- Developing and reviewing financial pro formas
- Reviewing EPC contractor's detailed design drawings, calculations, and layouts
- Developing detailed design alternatives and options for the project, including cost estimates

- Reviewing major equipment design and operating track record
- Creating design specifications for key project components
- Developing and reviewing O&M procedures, costs, and practices
- Performance modeling (such as Gate Cycle)

Construction Management

As a project enters the construction phase, project owners need to manage, monitor, and inspect construction to ensure that the EPC contractor is performing quality work in a timely, cost-effective manner.

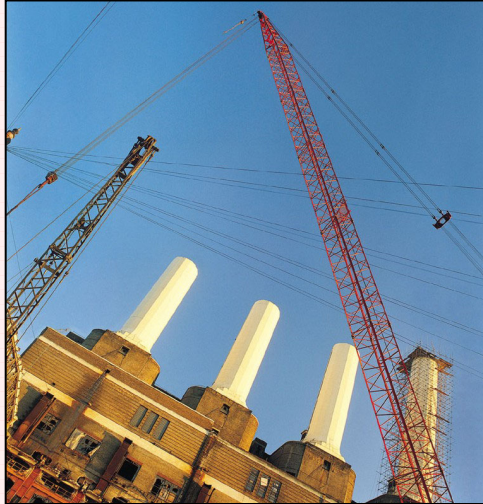
From guiding clients through the successful construction of hundreds of projects, E3 staff know how to zero in on potential cost, schedule, and construction quality issues before they become significant problems for the project owner. Our construction management services include:

- Preparing milestone summary schedules to compare and monitoring the EPC contractor's progress on the detailed project schedule
- Reviewing project cost estimates and maintaining current project budgets
- Providing frequent inspections of the construction site (or an owner's site representative), including construction quality reviews
- Performing factory inspection of critical equipment items
- Reviewing the EPC contractor's quality assurance programs and assessing compliance with those programs
- Reviewing change order requests for technical merit, cost implications, and schedule implications
- Reviewing in detail the monthly invoices of the EPC contractor
- Reviewing the EPC contractor's performance testing plans and procedures
- Overseeing facility commissioning and turnover
- Monitoring performance testing
- Verifying achievement of key EPC contract milestones, including mechanical, substantial, and final completion

A Delicate Balance, Continued

SOLUTION Our first order of business was to focus on issues that both parties could agree would make the EPC contract easy to administer. As they began to reach agreement on the administrative issues, the tenor of the negotiations became more open and cooperative. We then worked to establish and prioritize the contractual provisions that were most important to our client and to the EPC contractor. Using that knowledge as a basis, we were able to quickly resolve several issues that had previously been roadblocks between the parties.

In addition, we were able to remove various issues from the table through a business analysis of certain technical issues. For example, by establishing the relatively low value of dual fuel capability to our



client for this specific project, we helped the client reduce the overall EPC contract price concerning provision of schedule liquidated damages for fuel oil firing.

RESULT The final EPC contract was viewed by all parties as a fair, market-based contract. As all parties had confidence in the EPC contract going into construction, change orders and general disagreements between the parties were minimal as the project progressed. Further, our site representative was able to handle the administrative responsibilities associated with the EPC contract with ease because the contract provisions were clear and unambiguous.

The project was constructed, commissioned, and tested and entered commercial operations on time and under budget.

Environmental

Permitting and Licensing

Developers of energy and transmission projects must secure a host of permits and approvals governed by complex and often confusing regulations. The permitting process can be lengthy, so any delay or error in securing even a single permit can have a domino effect on the entire project. E3 can prepare and track — and when necessary, expedite — the progress of detailed permit applications through the many agencies and offices involved — until your permits are issued. And because it's critical to get it right the first time, we develop effective lines of communication with appropriate agencies throughout the permitting process.

Having permitted several stationary source and linear corridor (transmission line and pipeline) projects throughout the United States, we are also experienced with typical federal, state, and local requirements for facility siting and impact analyses. These include state requirements sometimes imposed by a public utility commission or site certification board for a ruling of Public Convenience and Necessity.

We provide comprehensive environmental permitting services to utilities, independent power developers, refineries, municipalities, mining, and industrial companies. Depending on your specific situation, we can furnish environmental permitting services independently or in conjunction with other services, such as owners engineering. They include:

- Preparing environmental siting studies for transmission lines, pipelines, power plants, and chemical plants
- Major and minor stationary source permitting, including Prevention of Significant Deterioration (PSD) and non-attainment reviews

- Preparing environmental assessments or environmental impact statements

Case Study

Checks and Balances – Environmental and Social Management

CHALLENGE A leading independent power producer in North America and abroad, sought financing from the Inter-American Development Bank (IDB) to build two adjacent power plants in central Mexico.

Because the plant site is in a remote, sparsely populated area of central Mexico, the IDB was concerned that the workers building the facilities — as many as 1200 during peak activity — might overwhelm the small towns nearby. *(Continued on page 13)*

Compliance and Management Systems

Complying with complex federal and state environmental regulations can be a daunting task. But armed with an in-depth assessment of your current compliance posture and the implementation of a practical, manageable, continuing program to keep your facility in compliance with standards for air, water, solid and hazardous waste, oil pollution prevention, and noise — all developed within the context of costs, risks, and benefits — you can stay ahead of the compliance curve and avoid costly penalties.

E3 develops comprehensive compliance programs for power plants, refineries, chemical plants, electric transmission and distribution systems, municipalities, drinking water treatment and distribution facilities, and wastewater treatment and reuse facilities. We also provide technical assistance with environmental and compliance issues that inevitably come up during ongoing activities. In this role, we basically become an extension to your staff — someone who knows your

organization and its needs, but is not a full time employee.

Our services include:

- Review of management processes
- Compliance assessment
- Continuing technical support on day-to-day environmental issues

- Organizational structure review and optimization
- Review or development of reporting systems
- Compliance tracking and knowledge management
- Assisting with environmental management systems (ISO 14001, Responsible Care, etc.).

Checks and Balances, Continued

Not only was housing in short supply, so were food, sanitary facilities, health care, and other amenities. So, as a condition for financing, IDB required the developer to demonstrate that the facilities would not adversely affect the physical environment, worker health and safety, or local infrastructure.

To address these and other environmental issues, the developer retained E3 to prepare environmental and social management plans (ESMPs), for the developer and the construction contractor.

APPROACH First, we gathered information about the various participants' needs and expectations for the outcome of this study. As is typical in projects of this type, not only IDB had concerns about the potential impact, so did the local populace, as well as the bank's independent engineer.



It would be critical that our work product addressed their concerns and expectations *and* the owner's needs and resources throughout the project's duration – expected to be two and a half years. Our objective, then, was to strike a balance between efficient plant construction and operations and managing the environmental and social consequences during the project period and beyond.

To develop practical and appropriate means of monitoring and mitigating the project's environmental and socioeconomic impacts, we assessed air emissions, water supply, water discharges, waste production, noise, transport, worker housing, and potential pollution prevention opportunities.

As is our practice for every engagement, we maintained frequent communication with the independent engineer so that he could keep IDB up to date and to minimize last-minute issues, because each of the bank's concerns had to be resolved before they would commit to funding the project.

Checks and Balances, *Continued*

SOLUTION E3 prepared ESMPs that balanced the expectations of the IDB and local citizens with the realities of building a major generating facility in the local environment. The plans provided a specific, easy-to-follow guide for establishing reasonable mitigation, monitoring, and inspection practices during operation of each facility. The plans also provided a framework for evaluating the effectiveness of those measures and for making adjustments over time.

Within the context of applicable regulations, the plans address mitigation and monitoring plans, quality control (audits, supervision, and inspections), public consultation, reporting requirements, and mitigation costs.

E3 also prepared a detailed socioeconomic action plan that provided an approach for town officials and company representatives to meet regularly and discuss

whether more (or less) socioeconomic mitigation appeared necessary.

Mitigation addressed a range of issues, including busing workers to the site to minimize traffic, road repair, construction of worker housing, and several safety items. The independent engineer and IDB both concluded the action plan was acceptable.

RESULT

- IDB financing was provided and construction began on both projects.
- E3 helped the owner meet a major stakeholder requirement for project financing.
- The plant manager has a straightforward checklist for managing and reporting the plants' environmental and social consequences.

Infrastructure Planning

Federal, state, and local agencies often require economic studies to show whether construction of public facilities might create adverse social or economic impacts. Such projects can include new or widened roads or highways, recreation facilities, and water/wastewater systems. Studies may also address the relative benefits and costs of various project alternatives.

Transportation Planning

E3 helps federal and state agencies identify direct and indirect economic effects of highway construction. Working with agencies and stakeholders, we assess:

- Long term residential and commercial land development associated with new or modified highways. Assessments take into account local comprehensive master plans, zoning ordinances, and the availability of key services (potable water, wastewater treatment and other infrastructure)
- Population and demographic effects of road construction
- Indirect and secondary economic benefits of road construction, including additional local jobs, local spending, household income and taxes (such effects are modeled)
- Tourism growth in national forests and national parks related to improved road access and enhanced visitor facilities
- Short and long term economic effects of constructing highway bypasses around communities in rural areas. Benefits potentially include economic growth, reduced traffic and noise in the central business district and shorter travel time. For small communities, adverse effects can include a decline in retail sales and jobs

- Cost-benefit analyses associated with road or highway widening in developed areas. Impacts may be associated with business closures and reduced sales during construction caused by limited access

Recreation Planning

E3 staff are experienced in modeling the economic benefit of increased tourism, which is often associated with development of new recreation facilities. For example, for the National Park Service, the Bureau of Land Management, the U.S. Forest Service, and the Colorado Department of Transportation, we conducted comprehensive evaluations of the:

- Economic benefit of adding new visitor accommodations and developing hiking trails at three national parks
- Long-term benefit of expanding a visitor center at Little Rock Central High School (a National Memorial site)
- Estimated economic impact of casino expansions in Gilpin County, Colorado; benefits were measured in terms of additional jobs, tax revenues, and increased tourism.

Case Study

The Road to Mountain Gaming: Lowering the Stakes

CHALLENGE Until Colorado legalized limited-stakes gambling in 1991, Black Hawk and Central City, two sleepy, historic mining towns barely a mile apart, were a quick 45-minute drive from Denver. But as the number of casinos grew, so did traffic, with tour buses and autos jockeying for space along two-lane Colorado State Highway 119 – the only route to the two towns.

Because of traffic accidents and severe congestion along the highways leading to the towns, Colorado Department of Transportation began a two-year environmental impact statement (EIS) to evaluate different access routes into either or both towns. *(Continued on page 16.)*

Water Resource Economics

E3 has advised municipalities and other public entities in the area of water resource economics, assessing the:

- Estimated net present value cost of expanding a municipal potable water system
- Associated increase in residential and commercial water rates
- Effect of higher water costs to agricultural irrigators
- Effect of reduced groundwater levels (caused by operation of a proposed power plant in Arizona) on local ranch operations
- Economic benefit of developing a large water storage reservoir in Douglas County, Colorado
- Cost-benefit study of improvements to livestock range in Wyoming
- Estimated environmental and economic costs of ground water cleanup in Wyoming
- Economic study of a potable water program for a New Mexico city; significant issues included increased water rates for local residents and induced population growth

The Road to Mountain Gaming, *Continued*

The study objective was to identify a preferred construction option (widening an existing road, construction of a new road, or both). To assure that the EIS would be accurate, CDOT wanted to forecast long-term trends in land development (including population) and casino growth, because future land development patterns will have a major effect on traffic volume.

APPROACH CDOT retained E3 to forecast land development in southern Gilpin County through 2025 and to project future gaming devices (slot machines and table games) and hotel rooms in Black Hawk and Central City.

After interviewing more than 50 local agency officials, planners, and business owners, E3 staff mapped existing land uses in the southern portion of Gilpin County and identified proposed local real estate developments.



Maximum “developer claimed” projects were scaled back to reflect water availability, suitable terrain, zoning, economic feasibility, and consistency with other master plans in the area.

SOLUTION Our common-sense approach produced a lower, more realistic level of future growth, broken down by residential, commercial, and industrial categories. We also forecasted the number of gaming devices and hotel rooms that would likely be added to the two gaming communities by 2025.

RESULT CDOT now has a defensible basis for modeling future traffic levels in southern Gilpin County, Colorado. As a result of the land development forecast performed by E3, CDOT and other agencies have been able to model future traffic flow along roads and highways leading to the towns. It is expected that the EIS will be completed in 2003.

Staff

Donald J. Hurd Managing Partner

303.762.7063
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EDUCATION

BS, Mechanical Engineering
Metropolitan State College
of Denver

QUALIFICATIONS

Mr. Hurd's 23 years of engineering and business experience have focused on energy production and transmission systems. He has managed and conducted due diligence reviews, financial and thermal performance model analyses, design reviews, construction and start-up monitoring, EPC contract negotiations and development, dispute resolution, performance test monitoring, operations assessment, and RFP development for utilities, owners, and lenders and various governments on existing and greenfield projects in the US and abroad. He has worked with solar energy systems, combustion turbines, geothermal, reciprocating engines, fluid bed combustion, electric and steam transmission systems, conventional solid fuel boilers, and several first-of-a-kind technology applications.

Paul Plath, PE Senior Partner

303.762.7061
paul.plath@e3co.com

EDUCATION

BS, Mechanical Engineering
University of Colorado
Registered Professional
Engineer

QUALIFICATIONS

Mr. Plath has 19 years of experience in engineering and consulting for power and industrial projects. His experience includes gas and electric distribution engineering, energy conservation, technical due diligence, performance and economic modeling, construction monitoring, performance testing, and operations audits. He has provided technical due diligence consulting for private debt placements, leases, and public offerings for the financing of more than \$1 billion value for power and industrial projects. Mr. Plath specializes in evaluating performance and economic data, developing financial forecasts, and assessing technical risk issues as they affect project economics.

James Short

Senior Partner

303.762.7062

jim.short@e3co.com

EDUCATION

BS Chemical Engineering
Oklahoma State University

QUALIFICATIONS

Mr. Short has been providing consulting engineering analyses of both power and non-power projects for over 15 years. He specializes in financial model development and review, technical due diligence, and environmental permitting. He has developed financial models projecting operating results for projects seeking commercial debt and public offerings. Mr. Short has extensive experience permitting power projects utilizing combustion turbines, diesel engines, and fluidized bed combustion, including all aspects of environmental impact assessments and stationary source permitting. He also has experience in construction monitoring, performance testing, environmental site assessments, environmental compliance, and contingency and risk management planning.

David L. Coke

Executive Consultant

281.578.5958

david.coke@e3co.com

EDUCATION

MBA, University of Texas at
Austin
BSME, University of Texas
at Austin

QUALIFICATIONS

Drawing on 27 years in both the technical and business sides of the electric power industry, David Coke looks at a power generating facility or a pro forma with a deep understanding of the equipment, plant, fuels, people, and countless other operating variables that affect a facility. He is skilled in profit and loss management, asset management, asset valuation, project management, contract administration, and operations management. He excels in helping power organizations create structures, culture, and programs that result in increased plant and financial performance while providing a work environment in which all team members can reach their highest potential.

Earl Franklin
Executive Consultant

770.522.9665
earl.franklin@e3co.com

EDUCATION

MBA, Wharton School
University of Pennsylvania

BS Industrial Engineering
Georgia Tech

QUALIFICATIONS

Mr. Franklin has more than 30 years experience in power project development, engineering, construction, startup, and operations management. For the past four years, he has consulted with energy companies and financial institutions, assisting with project development and acquisitions. With PG&E Generating Company, he was responsible for a portfolio of about 20 operating projects. Mr. Franklin's experience includes project engineering, construction management and startup on about 20 non-regulated power projects.

James W. Galambas, PE
Executive Consultant

303.762.7072
jim.galambas@e3co.com

EDUCATION

MBA, Management
New York University

BS Mechanical Engineering
University of Pittsburgh

QUALIFICATIONS

For more than 42 years Mr. Galambas has been providing engineering and consulting services to electric utilities, fuel and equipment suppliers, investment banks, multilateral banks, public utility commissions, universities, major manufacturers, food processors, mines, Western Area Power Administration, and the U.S. Agency for International Development. Projects have included climate change mitigation, power plant operations, maintenance, and performance testing, energy conservation and fuel procurement audits, restructuring of electric utilities, infrastructure project appraisal, organizational studies, economic evaluations, cogeneration studies, energy contracts, generation dispatching, management audits, mergers and acquisitions, due diligence analysis, power system planning, and general management consulting.

Andrew Franks, PE
Senior Director

303.762.7065
andy.franks@e3co.com

EDUCATION

BS, Petroleum and
Natural Gas Engineering
Pennsylvania State University

QUALIFICATIONS

Mr. Franks has more than 16 years of experience in energy engineering, petroleum engineering, and consulting. His experience includes 10 years of due diligence engineering in support of project financing and project development, three years of oil field experience in western Colorado, and three years of oil and gas reservoir and production engineering. His most recent experience includes managing and conducting technical design reviews; economic evaluations; and construction monitoring and performance testing of new and existing oil and gas reservoirs, pipelines, storage facilities, and distribution systems.

Galyn Land
Senior Director

303.762-7066
galyn.land@e3co.com

EDUCATION

BS, Construction Management,
Colorado State University

QUALIFICATIONS

Mr. Land has more than 23 years of experience providing construction management services to electric utilities, independent power producers, petroleum refineries and chemical processors, pulp and paper facilities, and other industrial and commercial facilities. He is adept at identifying and resolving issues related to project and construction management, performing due diligence reviews for financing and acquisitions, preparing and analyzing project and construction costs, preparing and analyzing project and construction schedules, and conducting independent claims analysis for construction projects.

Joe Mendez
Senior Director

713. 961.3438
joe.mendez@e3co.com

EDUCATION

MBA (Finance)
University of Texas

JD, UCLA School of Law

BS, Civil Engineering
Texas A&M University

QUALIFICATIONS

Mr. Mendez has 22 years experience in the energy industry identifying and capturing value in markets and assets. His experience includes project management, financial/market analysis, power marketing, negotiations and asset development. He has successfully negotiated joint ventures to develop power plant projects, and has played key roles in the development of four other power projects that were built or sold. Mr. Mendez's specialties include asset development, negotiating and structuring commercial transactions in the energy sector, and financial evaluation/modeling of assets and commercial transactions, using sophisticated tools and techniques to evaluate ranges of investment returns and breakeven scenarios.

Steve Miller
Senior Director

303.762.7067
steve.miller@e3co.com

EDUCATION

BA, Economics
William Jewell College

Graduate study, Economics

QUALIFICATIONS

Mr. Miller is a senior economist and environmental planner with more than 20 years' experience managing environmental studies and obtaining natural resource permits. He has extensive knowledge of the National Environmental Policy Act (NEPA) and associated federal and state environmental regulations. Mr. Miller has managed more than 30 socioeconomic or fiscal studies for electric utilities, federal and local agencies, and private developers. He is currently working on several highway corridor studies to identify the economic effects of widened highways and construction of new highway bypasses.

Edward Settle

Director

303.762.7070
edward.settle@e3com

EDUCATION

MBA, University of Denver

BS Chemical and Petroleum-
Refining Engineering,
Colorado School of Mines

BS Chemistry
Bob Jones University

QUALIFICATIONS

Mr. Settle has more than 16 years of experience providing engineering services to electric utilities, petroleum refineries, chemical processors, and other industries. After working two years in a chemical plant, Mr. Settle has spent the last 14 years as an environmental engineering consultant. He is expert in air quality modeling, control technology determinations, new source and modification permitting (PSD/NSR), Title V permitting, multimedia compliance auditing, and lender advisory services. Mr. Settle is director of E3's renewable energy practice focused on wind, hydro, geothermal, biomass, energy efficiency, and climate change.

Monique Jimenez, PE

Lead Consultant

303.762.7075
monique.jimenez@e3co.com

EDUCATION

BS Mechanical Engineering,
Colorado State University

QUALIFICATIONS

Ms. Jimenez has more than 10 years' experience in energy engineering and management consulting. She has provided support to due diligence engineering through technical design reviews, conceptual design, construction monitoring, startup and performance testing and operation and maintenance of electric generating facilities. Ms. Jimenez has provided economic evaluations and financial modeling for both electric generation projects and gas pipeline projects. Management consulting services have included rate design, load resource forecasting, and evaluating generation resource options, as well as technical support to utilities preparing submissions to various regulatory agencies.

Matt Lee
Lead Consultant

303.762.7064
matt.lee@e3co.com

EDUCATION

BS, Mechanical Engineering
Colorado School of Mines

QUALIFICATIONS

Mr. Lee has more than 12 years of experience providing engineering services to power plant developers, electric utilities, municipalities, custom automation design companies, and other industries. He has provided project development support, lender's advisory services, control technology determinations, air quality modeling, multi-media compliance auditing, and environmental training.

Scott Vanderau
Senior Consultant

303.762.7069
scott.vanderau@e3co.com

EDUCATION

BS Chemical Engineering
Lehigh University

QUALIFICATIONS

Mr. Vanderau has more than four years of engineering experience in the energy industry. He spent two years working as a petroleum engineer, where he organized annual drilling programs, and designed and evaluated pipeline projects. Mr. Vanderau has participated in due diligence reviews, including construction monitoring, lender advisory services, and observing performance tests of oil and gas and power facilities.

SCHEDULE 1

Party in Interest	Nature of Interest in the Mirant Americas Generating LLC Chapter 11 Case	Description of Current Relationship of Energy and Environmental Engineering, LLC d/b/a/ E3 Consulting ("E3")
Bank of America	Unsecured Creditor	<p>E3 is currently retained by Bank of America to provide consulting services in several situations in matters unrelated to these chapter 11 cases.</p> <p>E3 is currently retained to provide consulting services in a situation where Bank of America is a related party in matters unrelated to these chapter 11 cases.</p>
Bank of Nova Scotia	Unsecured Creditor	E3 is currently retained to provide consulting services in a situation where Bank of Nova Scotia is a related party in matters unrelated to these chapter 11 cases.
Bank of Tokyo-Mitsubishi	Unsecured Creditor	<p>E3 is currently retained in an out-of-court situation where Bank of Tokyo-Mitsubishi is a related party in matters unrelated to these chapter 11 cases.</p> <p>E3 is currently retained to provide consulting services in a situation where Bank of Tokyo-Mitsubishi is an Agent or Participant bank in matters unrelated to these chapter 11 cases.</p>
Bank One	Unsecured Creditor	E3 is currently retained to provide consulting services in a situation where Bank One is a related party in matters unrelated to these chapter 11 cases.
Bear, Stearns & Co., Inc.	Unsecured Creditor	E3 is currently retained to provide consulting services in a situation where Bear Stearns & Co. is a related party in matters unrelated to these chapter 11 cases.
Citibank/Citicorp/Citigroup	Unsecured Creditor	E3 is currently retained to provide consulting services in a situation where Citigroup is a related party in matters unrelated to these chapter 11 cases.
Credit Lyonnais	Unsecured Creditor	<p>E3 is currently retained by Credit Lyonnais to provide consulting services in several situations in matters unrelated to these chapter 11 cases.</p> <p>E3 is currently retained in an out-of-court situation where Credit Lyonnais is the Agent Bank in matters unrelated to these chapter 11 cases.</p>

Party in Interest	Nature of Interest in the Mirant Americas Generating LLC Chapter 11 Case	Description of Current Relationship of Energy and Environmental Engineering, LLC d/b/a/ E3 Consulting ("E3")
Credit Suisse Asset Management/Credit Suisse First Boston	Unsecured Creditor	E3 is currently retained to provide consulting services in a situation where CSFB is a related party in matters unrelated to these chapter 11 cases.
Deutsche Bank and DG Bank	Unsecured Creditor	E3 is currently retained to provide consulting services in several situations where DG Bank is a related party in matters unrelated to these chapter 11 cases.
Fleet National Bank Bank Boston	Unsecured Creditor	E3 is currently retained in an out-of-court situation where Fleet is a related party in matters unrelated to these chapter 11 cases.
Goldman Sachs	Unsecured Creditor	E3 is currently retained to provide consulting services in several situations where Goldman Sachs is a related party in matters unrelated to these chapter 11 cases.
Haynes & Boone LLP		E3 is currently retained on a project where Haynes & Boone is counsel to the developer in matters unrelated to these chapter 11 cases.
Huron Consulting Group LLC	Forensic accountants for the Mirant Committee	E3 is currently retained by Huron Consulting Group LLC in an out-of-court situation providing consulting services in matters unrelated to these chapter 11 cases.
ING Capital Advisors, Inc.	Unsecured Creditor	E3 is currently retained in an out-of-court situation where ING Barings U.S. Capital, LLC is a related party in matters unrelated to these chapter 11 cases.
JP Morgan Chase	Member of the Official Committee of the Unsecured Creditors of MAGI	E3 is currently retained to provide consulting services in several situations to JP Morgan Chase in matters unrelated to these chapter 11 cases.
KBC Bank	Unsecured Creditor	E3 is currently retained to provide consulting services in several situations where KBC Bank is an agent or participant bank in matters unrelated to these chapter 11 cases.
Latham & Watkins LLP	Special Counsel for the Debtors	E3 is currently retained in a situation where Latham & Watkins is a retained professional in matters unrelated to these chapter 11 cases.
Lehman Brothers	Member of the Official Committee of Unsecured Creditors of MAGI	E3 is currently retained to provide consulting services in several situations where Lehman is a related party in matters unrelated to these chapter 11 cases.

Party in Interest	Nature of Interest in the Mirant Americas Generating LLC Chapter 11 Case	Description of Current Relationship of Energy and Environmental Engineering, LLC d/b/a/ E3 Consulting ("E3")
Merrill Lynch	Unsecured Creditor	E3 is currently retained to provide consulting services in several situations where Merrill is a related party in matters unrelated to these chapter 11 cases.
Paul, Hastings, Janofsky & Walker LLP	Special Counsel for the Debtors	E3 is currently retained by Paul Hastings to provide consulting services in matters unrelated to these chapter 11 cases.
Royal Bank of Scotland	Member of the Official Committee of Unsecured Creditors of MAGI	E3 is currently retained in an out-of-court situation where Royal Bank of Scotland is a related party in matters unrelated to these chapter 11 cases.
Simpson, Thacher & Bartlett LLP	Co-Counsel for Mirant Committee	E3 is currently retained in an out-of-court situation where Simpson Thacher & Bartlett is a retained professional in matters unrelated to these chapter 11 cases.
Skadden, Arps, Slate, Meagher & Flom LLP	Special Counsel for the Debtors	E3 is currently retained to provide consulting services in a situation where Skadden Arps is also a retained professional in matters unrelated to these chapter 11 cases.
TD Securities/Toronto-Dominion	Unsecured Creditor	E3 is currently retained to provide consulting services in situations where TD Securities is an Agent or Participant Bank.
Wachovia	Unsecured Creditor	E3 is currently retained to provide consulting services in a situation where Wachovia is a related party.
Wells Fargo Bank	Member of the Official Committee of Unsecured Creditors of MAGI	Wells Fargo currently provides a transaction account and revolving line of credit to E3.
White & Case LLP	Debtors' Counsel	E3 is currently retained as a technical advisor in a situation where White & Case is also counsel in matters unrelated to these chapter 11 cases.

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

In re)	Chapter 11 Case
)	
MIRANT CORPORATION, et al.,)	Case No. 03-46590 (DML)
)	
Debtors)	Jointly Administered

**AFFIDAVIT OF NORM RICHARDSON IN SUPPORT OF THE APPLICATION
OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF MIRANT AMERICAS GENERATION, LLC FOR AUTHORITY
TO RETAIN NEW ENERGY ASSOCIATES, LLC AS ITS ENERGY CONSULTANTS**

STATE OF GEORGIA)
) ss.:
COUNTY OF COBB)

NORM RICHARDSON, being duly sworn according to law, upon his oath,
deposes and says:

1. I am the Director of Energy Markets Analysis of the firm New Energy Associates, LLC (“New Energy”), a Delaware limited liability company.

2. This affidavit is being submitted in connection with and in support of the Application of the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC (the “MAGI Committee”) for Authority to Employ E3 Consulting and New Energy Associates, LLC as its Energy Consultants (the “Application”) to perform services as set forth hereinafter.

3. To the best of my knowledge and belief, insofar as I have been able to ascertain after due inquiry, none of the members or employees of New Energy is related to the above-captioned debtors and debtors-in-possession (collectively the “Debtors”), their creditors, other

parties in interest herein, or the United States Trustee or anyone employed in the Office of the United States Trustee, or holds or represents any interest adverse to any such party. New Energy may represent or have represented certain of the Debtors' creditors or other parties in interest herein, or interests adverse to such creditors or other parties in interest herein, in matters unrelated to these cases. None of the services that were or will be provided in the course of these other engagements (i) is connected in any way to this proceeding; (ii) will impact or conflict with or be adverse to the rights of the Debtors in this proceeding; and (iii) will compromise New Energy's ability to continue providing services in this proceeding.

4. New Energy is a wholly owned subsidiary of Siemens Westinghouse Power Corporation. In connection with the preparation of this Affidavit, New Energy conducted a review of both New Energy's and Siemens Westinghouse Power Corporation's professional contacts with the Debtors, their affiliates and other interested parties identified on a list ("Interested Party List") provided to New Energy by the counsel to the MAGI Committee in this proceeding. New Energy ran the Interested Party List through their internal database containing names of individuals and entities that are present or recent former clients of New Energy. New Energy then reviewed those results. A summary of such relationships is set forth in Schedule 1 to this Affidavit.

5. It should be understood that New Energy's former clients and their affiliates, officers, directors, principal shareholders and their respective affiliates may have had relationships with parties in interest in these bankruptcy cases of which New Energy was not informed or, subsequent to the performance of New Energy's services, may have developed relationships with such parties of which New Energy is unaware.

6. To the best of New Energy's knowledge and belief, except as set forth in Schedule 1 to this Affidavit, none of New Energy's former clients (including their affiliates, officers, directors, principal shareholders and their respective affiliates) nor Siemens Westinghouse Power Corporation is connected to the parties-in-interest, as provided to us by counsel to the MAGI Committee.

7. New Energy will promptly update and supplement this Affidavit, disclosing any material developments regarding the Debtors or any other pertinent relationships that require disclosure in the above-referenced case, if and when any such developments or relationships come to New Energy's attention.

8. New Energy has agreed to provide assistance to the MAGI Committee in accordance with the terms and conditions set forth herein, in the Application and in the Engagement Letter which is appended to the Affidavit of Earl Franklin as Exhibit "A" and incorporated herein by reference (the "Engagement Letter"). Accordingly, I make this Affidavit in support of an order authorizing such retention.

9. All the services that the New Energy will provide to the MAGI Committee will be: (i) at the request of the MAGI Committee, (ii) appropriately directed by the MAGI Committee so as to avoid duplicative efforts among the professionals retained in the case, and (iii) performed in accordance with generally accepted professional standards. It is presently anticipated that New Energy will provide the following services:

- (a) Provide commodity price assumptions, energy and capacity prices, and fuel and emission allowance price forecasts;
- (b) Model commodity prices in relevant regions
- (c) Assist in developing fundamental models to forecast electric prices and plant performance;
- (d) Provide other services as requested by the MAGI Committee.

Qualifications

10. New Energy specializes in modeling electric power and fuel markets and has provided these services to investors, and creditors in out-of-court workouts and restructurings. New Energy's services include forecasting prices for electric energy and capacity, coal and gas fuel for power generators, the cost of environmental emissions allowances, and the dispatching of individual power generators in their relevant markets by which the revenue and gross margin of these generators is determined. New Energy has a reputation for quality and breadth of experience and has established itself as the leading global provider of true end-to-end energy IT and consulting solutions for decision support and energy operations. New Energy has been specializing in the development and support of integrated business applications in excess of 25 years, with clients worldwide in electric and natural gas utilities, energy trading and retailing, power generation and project development, transmission, as well as state and national governments. Over 250 premier energy companies in gas and power rely on New Energy's unique expertise in use at more than 500 locations worldwide. A statement setting forth New Energy's qualifications is attached hereto as Exhibit "A."

Staffing and Approach

11. A substantial portion of New Energy's work is advisory and involves New Energy's professionals counseling senior client personnel regarding high-level strategic and

tactical issues. Consistent with its relatively unique practice, New Energy's professional staff consists of accomplished professionals and senior industry practitioners. New Energy's staff combine years of experience, industry knowledge and market intelligence. Both New Energy's internal structure and work approach are designed around its unusual staff composition of senior professionals. Individual staff members are assigned project roles, to bring to bear their particular talents and experience in view of the specific requirements of the engagement. New Energy provides high value for its fees, efficiently leveraging its experienced professionals regarding the informational requirements of the MAGI Committee.

12. As one of the directors who will be primarily responsible for this engagement, I have more than 10 years of diversified business and professional experience. I will be responsible for the overall design of New Energy's services and direction of the engagement team.

Billing Practices

13. New Energy will seek compensation for its services as described herein and in the Application in accordance with its customary practices and in accordance with the guidelines of this Court and in compliance with the applicable provisions of the Bankruptcy Code and the applicable Federal Rules of Bankruptcy procedure, the Local Bankruptcy Rules, the administrative order pertaining to professionals retained in these proceedings and any other orders of this Court. New Energy charges fees based on actual hours expended to perform its services at standard hourly rates established for each employee, as adjusted semi-annually. It is the customary practice of New Energy to bill clients for travel time consistent with guidelines of the jurisdiction. Billing rates are generally representative of prevailing market rates, as awarded

by other Courts in similar circumstances, for practitioners providing such services at a national level who have comparable skill and experience. The billing rates for professionals who may be assigned to this engagement in effect as of April 1, 2004, are as follows:

	<u>Per Hour</u>
Senior Executive	\$440
Director	\$350
Professional Staff	\$180-320
Professional Assistants	\$85-125

My billing rate is \$350 per hour.

14. New Energy will work in conjunction with E3 Consulting, LLC (“E3”) to provide E3 support in the area of developing fundamental models to forecast electric prices and plant performance. As set forth in the Engagement Letter, New Energy will be engaged as E3’s contractor in the area of power and fuel market modeling. Thus, E3 will submit joint fee statements on behalf of both E3 and New Energy. Such fee submissions will set forth the separate fees charged, and specifically described the services performed by, each of the professionals employed by E3 and New Energy with respect to this engagement. Each monthly fee statement will separately request 80% of E3’s total monthly fees and 80% of New Energy’s total monthly fees with a hold back of 20% of the total fees for each of E3 and New Energy. There will be no fee sharing between E3 and New Energy.

15. New Energy reserves the right to seek court approval for additional compensation in circumstances where extraordinary results may warrant such additional compensation.

16. New Energy charges its clients only for reasonably incurred, out-of-pocket expenses associated with an assignment including, but not limited to, costs of reproduction, typing, any applicable state sales or excise taxes and other direct expenses. New Energy will comply with any applicable Administrative Order and with all rules with respect to the reimbursement of professionals in this case.

17. No fee payable to any other person or entity by the Debtors, the MAGI Committee or any other party shall affect any fee payable to New Energy under New Energy's retention.

18. Invoices for services rendered and out-of-pocket expenses incurred during each month will be submitted pursuant to the *Memorandum Order Consolidating Certain Professional Fee Orders* entered by the Court on January 20, 2004. In addition, such fees will be payable as allowed under the Bankruptcy Code.

/s/ Norm Richardson
NORM RICHARDSON

SWORN AND SUBSCRIBED to before
me this 19th day of April, 2004.

/s/ Judy T. Mayo
NOTARY PUBLIC in and for the
State of Georgia, County of Cherokee
Commission Expires: August 20, 2007

1. Executive Summary

NewEnergy provides a number of software systems recognized by the electric and gas industries as state-of-the-art tools.

MarketPower provides valuable information on the dynamics of the marketplace through its ability to determine the effects of transmission congestion, fuel costs, generator availability and load growth on market prices. MarketPower forecasts energy and capacity prices, fuel consumption by generator category and area, transmission flows and congestion prices.

PROMOD IV provides valuable information on the dynamics of the marketplace through its ability to determine the effects of transmission congestion, fuel costs, generator availability, bidding behavior, and load growth on market prices. PROMOD IV performs an 8760-hour commitment and dispatch recognizing both generation and transmission impacts at the bus-bar level. PROMOD IV forecasts hourly energy prices, unit generation, revenues and fuel consumption, bus-bar and zonal energy market prices, external market transactions, transmission flows and congestion prices.

NewEnergy PowerBase™ incorporates data on all generation, transmission and demand in the North American power grid.

Our expertise and resources, developed over 20 years, gives us the depth and flexibility to address the full scope of the issues, particularly utilizing our extensive experience in New England, New York, and PJM. NewEnergy's consulting practice is the analytical foundation of many power plant acquisition/development activities in the United States electric industry. We have worked with numerous energy companies providing analysis, expert witness testimony, stranded cost and restructuring recommendations, regional market assessments, and valuation techniques using a real options framework. Our industry-premier modeling capabilities provide a broad and proven simulation basis for our consulting studies. Independent power producers and investment banks have accepted NewEnergy's Forecasting Services.

2. Qualifications Summary

The following is a representative set of related recent consulting projects performed by NewEnergy in the area of market price forecasting.

Market Price Forecasts

Power Marketer/Generation Asset Owner

Zonal market price forecast was developed for the New York ISO region for the purpose of assisting in bid development for major power supply contract in the New York ISO.

Independent Power Producer

Market assessment of New England including a market price forecast and an assessment of changing market structure impacts on a generator's revenues.

Power Marketer/Generation Asset Owner

Developed forecast of busbar-level locational market clearing prices and evaluate the volatility of LMPs in ISO New England for potential power plant purchase, utilizing detailed busbar-level generation/transmission model.

Oglethorpe Power Corporation

Developed SERC market price forecast for varying conditions to be used in various analyses.

Power Marketer/Generation Asset Owner

Market prices were developed for use in analyzing revenues for a possible merchant plant development near New York City.

Midwest Utility

Performed a market analysis of the WSCC region for possible merchant plant development near Southern California.

Midwest Power Developer

Performed a market analysis of SERC, ECAR, SPP, and MAIN to assist the client in locating ripe markets for merchant plants at key interconnection points.

Midwest Cooperative G&T

Market prices were developed for the SPP and MAPP regions, for the purpose of assisting in negotiations with their wholesale electric supplier.

Florida Independent Power Producer

Market prices were developed for the FRCC region for the purpose of determining the expansion capabilities at an existing power plant site.

Southwest Cooperative G&T

Power supply options were developed and evaluated using our forecast of energy and capacity market prices for the ERCOT region. This was done for the purpose of determining the appropriate balance of building new capacity versus purchase power arrangements.

An Independent Power Producer

The potential acquisition of an existing plant was evaluated using a market price forecast for the ERCOT region for the purpose of assisting in purchase bid development and volatility assessment.

Western Utility

A strategic decision process for evaluating and maximizing asset holdings while supplying customer demand was developed under the upcoming retail customer choice option. Market prices were developed for the WSCC region for the purpose of developing and illustrating this process.

Midwest Utility

The potential acquisition of some existing generating plants was evaluated using a market price forecast for the MAPP region for the purpose of assisting in purchase bid development and volatility assessment.

Southwestern Utility

The impact of utilizing forecasted market prices for the SPP and SERC regions to assist in the analysis process of the impact of wholesale customer decisions on company business status was developed.

Large Southwestern Utility

Market prices were developed for the SPP and SERC regions for the purpose of analyzing the impact of retail customer choice in company business.

Northeastern Utility

A strategic decision modeling process for the evaluation of supplying customer demand was developed under the retail customer choice option. Market prices were developed for the Northeastern region for the purpose of developing and utilizing this process.

Entergy

Energy and capacity market price forecasts were developed for the SPP and SERC regions for the purpose of determining the client's stranded transition costs. These results have been the basis of strand cost filings in the state of Louisiana.

Eastern Utility

A strategic decision process for evaluating and maximizing asset holdings, while supplying customer demand, was developed and implemented under the future client competitive decision-making. Market prices were developed for the MACC and NPCC regions for the purpose of developing and illustrating this process in regards to the decision to join and influence the rules of a Regional Transmission Organization.

Central & Southwest Services

Market prices were developed for the ERCOT/SPP/SERC region, for the purpose of determining the client's stranded costs. These results have been the basis of stranded cost filings in the state of Louisiana.

Central Louisiana Electric Company

Market prices were developed for the ERCOT/SPP/SERC region for the purpose of determining the client's stranded costs. These results have been the basis of stranded cost filings in the state of Louisiana.

A Midwestern Power Marketer

Market price forecasts were developed for the ERCOT region and used to determine the economic viability of a proposed merchant plant to be built in that region.

An Independent Power Producer

Market price forecasts were developed for the NYPP/MAAC regions and used to determine the economic viability of acquiring existing merchant plants in that region.

Transmission Congestion Analysis

FTR Valuation Forecast and Optimization PJM Load-Serving Entity

Developed PJM price forecasts for the next year to evaluate the value of FTRs between various generating sources and load zones. Optimized the configuration of FTRs to maximize company benefit. These results were used in the company's designation to PJM of requested FTRs for the 2001-2002 contract year.

Merchant Plant Siting/Valuation

Merchant Plant Siting Analysis An Independent Power Producer

Finance procurement report, justifying the development of a merchant power plant in the SERC region, including market price forecasts for the SERC/FRCC regions, was developed. This merchant power plant venture represents the second time that the company has entered the electric power business. It also represents the first time in SERC and the first time that the company performed its own financing analysis.

SCHEDULE 1

Party in Interest	Nature of Interest in the Mirant Americas Generating LLC Chapter 11 Case	Description of Current Relationship of New Energy Associates, LLC ("New Energy")
Charles River Associates	Energy Consultants for the Debtors	Charles Rivers Associates currently licenses New Energy's PROMOD IV and PowerBase software, and receives support for the systems.

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

In re:	§	Chapter 11
	§	
MIRANT CORPORATION, et al.,	§	Case No. 03-46590-DML-11
	§	
Debtors.	§	Jointly Administered

**INTERIM ORDER PURSUANT TO SECTION 1103(a) OF THE BANKRUPTCY CODE
AUTHORIZING THE EMPLOYMENT OF E3 CONSULTING AND NEW ENERGY
ASSOCIATES, LLC AS ENERGY CONSULTANTS FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS OF MIRANT AMERICAS
GENERATION, LLC**

Came on for consideration the *Application of the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC for Authority to Employ E3 Consulting and New Energy Associates, LLC as its Energy Consultants* (the "Application"). The Court finds that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. The Court further finds that this is a core proceeding pursuant to 28 U.S.C. § 157. After reviewing the Affidavit of Earl Franklin an Executive Consultant with Energy & Environmental Engineering, LLC d/b/a E3 Consulting ("E3") in support of the Application (the "Franklin Affidavit") and the Affidavit of Norm Richardson the Director of Energy Markets Analysis at New Energy Associates, LLC ("New Energy") also in support of the Application (the "Richardson Affidavit"), the Court finds that: (i) the proposed employment of E3 and New Energy as energy consultants for the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC (the "MAGI Committee") is in the best interest of the bankruptcy estates and the MAGI Committee; (ii) neither E3 nor New Energy represent or hold any interest adverse to the Debtors' estates or the MAGI Committee such that either E3 or New Energy would be disqualified from representing the MAGI Committee in these Chapter 11 cases; and (iii) both E3 and New Energy are

disinterested person's as such term is defined under 11 U.S.C. § 101(14). The Court further finds that the Application should be granted. It is therefore

ORDERED that the retention of E3 and New Energy as energy consultants for the MAGI Committee is hereby granted on an interim basis (the "Interim Order") pursuant to 11 U.S.C. § 1103(a) for the purposes set forth in the Application and the Franklin and Richardson Affidavits, effective as of April 5, 2004 (the "Employment Date"). It is further

ORDERED that within three (3) business days of the entry of this Interim Order, E3 and New Energy shall serve the Interim Order upon all parties entitled to receive notice of the Application. It is further

ORDERED that E3 and New Energy shall be compensated in accordance with the procedures set forth in §§ 330 and 331 of the Bankruptcy Code and such Bankruptcy Rules as may then be applicable, from time to time, and such other procedures as may be fixed by order of this Court. It is further

ORDERED that the Interim Order shall be effective from April 5, 2004 through and including the date of final hearing on the Application. It is further

ORDERED that to the extent of any conflict between the terms and conditions of the Application and the Interim Order, the terms and conditions of this Interim Order shall govern. In is further

ORDERED that this Interim Order shall become a Final Order on the twenty-seventh (27th) day after entry of the Interim Order without further notice or hearing unless an objection to the Interim Order is timely filed with the Court and served on E3 and New Energy on or before twenty-six (26) days after entry of the Interim Order.

Dated: _____

**HONORABLE D. MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE**