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ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

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

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

**NOTICE OF (1) STATUS CONFERENCE CONCERNING CLAIMS RESOLUTION  
PROCESS AND ESTABLISHMENT OF CLAIMS ESTIMATION PROCEDURES AND  
(2) HEARING ON MOTION FOR AN ORDER (A) APPROVING CLAIMS  
ESTIMATION PROCEDURES AND (B) FIXING NOTICE PROCEDURES AND  
APPROVING FORM AND MANNER OF NOTICE**

**PLEASE TAKE NOTICE** that (1) a status conference to address the claims resolution process and the establishment of claims estimation procedures in these cases has been scheduled for **September 22, 2004 at 9:30 a.m.** and (2) a hearing on the “*Motion For An Order (A) Approving Claims Estimation Procedures And (B) Fixing Notice Procedures And Approving Form And Manner Of Notice*” (the “Motion” attached hereto as Exhibit A), has been set for **October 6, 2004 at 10:30 a.m.**, before the Honorable D. Michael Lynn, United States Courthouse, 501 W. Tenth, Fort Worth, Texas.

Any response or opposition to the Motion must be filed with the Bankruptcy Court and served upon Debtors' counsel, counsel for the Official Committees, the U.S. Trustee, and such other persons identified in the Certificate of Service appended hereto so that it is received by no later than 4:00 p.m. (prevailing Central time) on **October 1, 2004**.

RESPECTFULLY SUBMITTED THIS 13th day of September, 2004.

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she provided a true and correct copy of the foregoing to Bankruptcy Services, LLC on September 13, 2004 and directed them to effect service upon all persons identified below (the Material Tier IV Claimants) and on the Limited Service List via U.S. first class mail.

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

_____	)	Chapter 11 Case
In re	)	
	)	Case No. 03-46590(DML)11
MIRANT CORPORATION, <u>et al.</u> ,	)	Jointly Administered
	)	
Debtors.	)	Status Conference Date and Time:
	)	September 22, 2004 at 9:30 a.m.
	)	
	)	Hearing Date and Time:
	)	October 6, 2004 at 10:30 a.m.
_____	)	

**MOTION FOR AN ORDER (A) APPROVING CLAIMS  
ESTIMATION PROCEDURES AND (B) FIXING NOTICE PROCEDURES  
AND APPROVING FORM AND MANNER OF NOTICE**

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

Mirant Corporation (“Mirant”) and its above-captioned affiliated debtors (collectively with Mirant, the “Debtors”), as debtors and debtors-in-possession, file this motion (the “Motion”) pursuant to sections 105(a) and 502(c) of title 11 of the United States Code, 11 U.S.C. § 101, et seq. (the “Bankruptcy Code”) and Rules 3018, 7042 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for an order (a) approving the proposed procedures for the estimation of claims (the “Estimation Procedures”) in the Debtors’ chapter 11

cases, a copy of which is attached hereto as Exhibit A; (b) providing that any claim estimated pursuant to the Estimation Procedures shall be binding for all purposes, including but not limited to, the feasibility of, voting on, and distribution under a chapter 11 plan of reorganization for the Debtors; and (c) fixing notice procedures in connection with the Estimation Procedures and approving the form and manner of notice for estimation and resolution of claims filed against the Debtors. In support of the Motion, the Debtors respectfully state as follows:

### **I. JURISDICTION**

1. This Court has jurisdiction over the Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue of this proceeding and the Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

### **II. PROCEDURAL BACKGROUND**

3. The Cases. On July 14, 2003 and various dates thereafter (collectively, the “Petition Date”), Mirant Corp. and 82 of its direct and indirect subsidiaries filed voluntary chapter 11 petitions. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.
4. The Cases are Jointly Administered. This Court has entered orders approving the joint administration of the Debtors’ chapter 11 cases.
5. The Committees. Three official committees (collectively, the “Committees”) have been appointed by the Office of the United States Trustee for the Northern District of Texas (“UST”) in these administratively consolidated cases.
6. The Examiner. On April 7, 2004, this Court authorized the UST to appoint an examiner in these cases to analyze certain potential causes of action and act as a

referee with respect to certain disputes that arise among the Debtors, the Committees, or other parties in interest. The UST appointed William K. Snyder as the examiner in these cases.

### **III. STATUS REPORT**

#### **A. Bar Dates for Filing Proofs of Claim**

7. Effective July 14, 2003, the Court approved (a) Bankruptcy Services LLC (the “Claims Agent”) as the official claims and noticing agent in these cases; and (b) AP Services (“AP”) to aid the Debtors with, among other things, the proofs of claim reconciliation process in these chapter 11 cases.

8. On August 21, 2003, the Bankruptcy Court entered an “Order Pursuant to Bankruptcy Rule 3003(c) (I) Establishing a Bar Date for Filing Certain Proofs of Claim; (II) Establishing Ramifications for Failure to Comply Therewith; (III) Approving Proof of Claim Form and Consolidated Notice of (A) Case Commencement, (B) Bar Date, and (C) Meeting of Creditors Under Section 341(a) Of The Bankruptcy Code; and (IV) Approving Notice and Publication Procedures” (the “Bar Date Order”).<sup>1</sup> The Bar Date Order established December 16, 2003 at 5:00 p.m. EST as the last day to file a timely proof of claim and January 12, 2004 as the bar date for governmental units to file proofs of claim (the “Bar Dates”),<sup>2</sup> against the Debtors’ estates.

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<sup>1</sup> The Bar Date Order originally applied to those Debtors who filed their chapter 11 petitions on July 14, 2003 and July 15, 2003. The Bar Date Order was made applicable to Debtors Mirant EcoElectrica Investments, I, Ltd. and Puerto Rico Power Investments, Ltd. by order entered September 8, 2003 and to Debtors Mirant Wrightsville Management, Inc., Mirant Wrightsville Investments, Inc., Wrightsville Power Facility, LLC, and Wrightsville Development Funding, LLC by order entered October 9, 2003.

<sup>2</sup> The term “Bar Dates” is applicable to each of the bar dates established by order of this Court. On January 8, 2004, the Bankruptcy Court entered an “Order Pursuant to Bankruptcy Rule 3003(c) (I) Establishing a Bar Date for Filing Certain Proofs of Claim; (II) Establishing Ramifications for Failure to Comply Therewith; and (III) Approving Proof of Claim Form and Notice of Bar Date for the MAEC

(continued...)

**B. Claims Objection Procedures**

**(1) Claims Filed Against the Debtors' Estates**

9. Approximately 8,000 proofs of claim were filed against the Debtors' estates as of the Bar Dates, and the Claims Agent initially recorded an aggregate of approximately \$243 billion in claims on the Debtors' claims register. AP's initial review indicated that of those 8,000 claims:

- (a) approximately 200 claims in the total amount of \$3.6 billion were duplicative or superceded by amended claims;
- (b) approximately 5,000 claims in the total amount of \$35 million were claims based on equity interests that should have been filed as proofs of interests, if at all;
- (c) over 100 claims in an aggregate amount exceeding \$200 billion were reduced, reclassified, or expunged from the claims register through request of the claimant for varying reasons, including that such claims are contingent and unliquidated and were not intended to have been recorded in liquidated amounts;
- (d) over 1,500 claims are inconsistent with the Debtors' books and records or are otherwise general unsecured claims that are misclassified as either priority or secured claims; and
- (e) the remaining claims include (1) claims that will likely not be disputed by the Debtors and (2) approximately 200 material claims, the liquidation of which could impact recoveries under a plan of reorganization in these cases.

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(...continued)

Debtors" (the "MAEC Bar Date Order"). The MAEC Bar Date Order established March 12, 2004 at 5:00 p.m. EST as the last day for creditors of the MAEC Debtors to file a timely proof of claim in the bankruptcy cases of the MAEC Debtors. The MAEC Bar Date Order established May 17, 2004 at 5:00 p.m. EST as the last day for governmental units to file timely proof of claim in the bankruptcy cases of the MAEC Debtors. On or prior to January 12, 2004, the Claims Agent provided notice of the MAEC Bar Date by mailing the Bar Date Materials to all known creditors of MAEC.

**(2) Claims Objection Procedures Previously Approved by the Court**

10. On June 8, 2004, after conducting both a status conference and a hearing concerning the Debtors' proposed procedures for filing omnibus objections to proofs of claim, the Court entered the "Order Establishing Procedures for Objections to Proofs of Claim" (the "Claims Objection Order"). The Claims Objection Order is available on the Internet at [www.alixpartners.com/cms](http://www.alixpartners.com/cms). The Claims Objection Order authorizes the Debtors to pursue omnibus claim objections (the "Claims Objection Procedures"), provided that each objection seeks relief with respect to claims that fit within one of four separate "Tiers." According to the Claims Objection Procedures:

- (a) A "Tier I Claim Objection" is an objection to (i) two or more proofs of claim asserting the same liability against the same Debtor; or (ii) a proof of claim that was amended or superseded by a later filed proof of claim. The Debtors filed their Tier I Claim Objections on July 2, 2004, and the Court entered an order disallowing \$3 billion in duplicate and amended claims on August 12, 2004.
- (b) A "Tier II Equity Objection" includes objections to proofs of claim based on ownership of equity securities. On August 18, 2004, the Debtors filed the "Debtors' Motion to (1) Disallow and Expunge from Claims Register Claims Based on Equity Interests; and (2) Maintain Claims Based on Equity Interests as Proofs of Interest" (the "Equity Motion"), seeking disallowance of approximately 5000 claims based on equity interests. The Debtors anticipate that the Equity Motion will be heard on September 29, 2004.
- (c) A "Tier III Claim Objection," for which the Court has given the Debtors substantial discretion to resolve without the utilization of significant Court time, includes objections that fall within two subcategories –
  - (1) Tier III(A) includes objections that seek to: (i) disallow a proof of claim based on the claimant's failure to attach any documentation providing a basis for the claim asserted; (ii) reclassify the priority of a proof of claim where the claimant failed to provide any documentation providing a basis for the asserted priority; (iii) identify the Debtor allegedly liable for

the claim asserted in the proof of claim; and (iv) disallow late-filed proofs of claim.

(2) Tier III(B) includes objections that seek to resolve claims that are the subject of disputes between the Debtors' books and records and the proofs of claim.

(d) A "Tier IV Objection" is a single claim objection addressing the substantive merits of a claim or liability that is likely to be litigated. Although there could be more than 200 claims that could fall into this category, the Debtors have determined to focus their efforts in the first instance on seeking to resolve a group of claims asserted by approximately forty claimants (the "Material Tier IV Claims") the liquidation of which the Debtors believe could materially impact plan recoveries. The Material Tier IV Claims are identified on Exhibit B hereto.

**(3) The Material Tier IV Claims**

11. Most of the Material Tier IV Claims fit within one of four categories. The first category of Material Tier IV Claims includes the "California Claims." The California Claims are broken down into two subcategories. The first subcategory of California Claims includes claims based upon litigation that was commenced prepetition by purported ratepayers, the attorney general for the state of California and certain other related parties. The second subcategory of California Claims includes regulatory-based claims related to refund and receivable issues in California.<sup>3</sup>

12. The second category of Material Tier IV Claims includes prepetition tort claims, most of which are securities-based putative class action matters. The third category of Material Tier IV Claims includes material prepetition commercial disputes, such as large lien

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<sup>3</sup> Currently pending before this Court are five adversary proceedings against the following parties asserting claims that fall into this second subcategory of California Claims: (a) Southern California Edison, (b) Pacific Gas & Electric Company, (c) California Power Exchange Corporation, (d) California Department of Water Resources, and (e) California Independent System Operator Corporation.

claims and prepetition litigation matters involving an aggregate of over \$200 million of claimed liabilities. Finally, the fourth category of Material Tier IV Claims includes large rejection damage claims, including those asserted by Perryville Energy Partners LLC, Kern River Gas Transmission Company and likely Potomac Electric Power Company.

13. Each of the claimants who filed the Material Tier IV Claims were served with a copy of this Motion. The Material Tier IV Claims identified on Exhibit B do not necessarily constitute the universe of claims to which the Debtors will object pursuant to the Claims Objection Procedures or seek to estimate under the Estimation Procedures, and the Debtors do not intend to bind themselves to any particular strategy with respect to the claims that have been identified as Material Tier IV Claims. For example, certain of the Material Tier IV Claims could be resolved without the need for litigation or estimation. Rather, the Debtors have merely provided the Court and parties in interest with a list of material claims, the resolution of which could delay the administration of these cases and affect recoveries under a chapter 11 plan of reorganization for the Debtors.

#### **IV. RELIEF REQUESTED**

14. The Debtors request an order of this Court pursuant to sections 105(b) and 502(c) of the Bankruptcy Code and Bankruptcy Rules 3018, 7042 and 9014:

- (a) establishing the Estimation Procedures in the Debtors' chapter 11 cases;
- (b) providing that the estimation of any claim pursuant to the Estimation Procedures is binding for all purposes, including but not limited to, feasibility of, voting on, and distribution under a chapter 11 plan of reorganization for the Debtors; and
- (c) fixing notice procedures in connection with the Estimation Procedures and approving the form and manner of notice for the estimation and resolution of Claims (as defined in the Estimation Procedures) and Counterclaims (as defined below).

## V. BASIS FOR THE RELIEF REQUESTED

15. As the Court is aware, during these chapter 11 cases the Debtors have focused on matters related to (a) stabilization of the Debtors' businesses, (b) utilization of the various provisions of the Bankruptcy Code designed to help facilitate the Debtors' reorganization efforts and (c) the defense and prosecution of certain routine chapter 11 matters and certain other extraordinary matters particularly unique to these cases. Beginning in the early spring when the Debtors circulated a business plan to the Committees, the process began to transition into the plan negotiation/formulation phase of the case. While the Debtors and creditor constituencies have started to engage in initial discussions concerning enterprise value, debt capacity and liquidity outside of the courtroom, inside of the courtroom, the Debtors have begun the process of shifting to the other side of the recovery formula, i.e., the resolution of disputed claims against the Debtors' estates.

16. As noted, the Debtors developed procedures for resolving disputed claims in an efficient fashion utilizing minimal Court time that also provided efficiencies to all parties. The Debtors are pleased with the results achieved during the early stages of the claim objection process.

17. The Tier IV Objections and adversary proceedings that have been filed or commenced thus far have been directed at disallowing or reducing some of the more material claims, the liquidation of which will certainly impact creditor recoveries. Within the coming months, the Debtors intend to file additional Tier IV Objections, seeking to resolve certain claims against the estates, including certain Material Tier IV Claims that could also impact recoveries under a plan of reorganization.

18. The Debtors are seeking approval of the Estimation Procedures at this time to enable the Debtors to utilize section 502(c) of the Bankruptcy Code in the event the liquidation of the Material Tier IV claims (or other claims the Debtors deem appropriate to seek to estimate) would serve to unduly delay the plan process and administration of these cases.

19. The proposed Estimation Procedures are the product of numerous discussions among the Debtors, their professionals and the Committees to develop a method to resolve the claims in an equitable, but economically efficient, manner. The Debtors anticipate that the Committees will support the approval and implementation of the Estimation Procedures.

## **VI. SUMMARY AND DISCUSSION OF PROCEDURES**

20. With careful consideration of the due process rights of the claimants, the Estimation Procedures have been structured and designed to ensure that each claim is carefully reviewed and that all claimants receive appropriate due process protection, while at the same time facilitating the economically efficient resolution of the claims.<sup>4</sup>

21. The Estimation Procedures contain, among other things, the following specific procedures and requirements:<sup>5</sup>

### **A. Tracks**

22. In order to most effectively address the unliquidated, disputed and contingent claims asserted against the Debtors' estates, the Debtors have divided the claims into three broad groups, referred to as "Tracks." The Tracks (a) address the varying levels of legal

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<sup>4</sup> Except as specifically set forth in the Estimation Procedures, the Bankruptcy Code, the Bankruptcy Rules, the Federal Rules of Civil Procedure and the Federal Rules of Evidence will apply to the estimation of all claims.

<sup>5</sup> To the extent the summary of the Estimation Procedures herein differs from the Estimation Procedures attached as Exhibit A to the Motion, the actual Estimation Procedures still govern.

and factual complexity among the claims and (b) are specifically tailored to promote expeditious and efficient resolution of the claims, while providing each claimant with appropriate due process protection. Through this process, the Debtors desire to foster an environment conducive to settlement and avoid potentially unnecessary litigation fees and expenses.

23. To accommodate the variety of claims for which estimation is appropriate, the Debtors propose to divide the claims into the following three Tracks:

- (a) **Track 1: Prepetition Litigation on Appeal:** (i) litigation decided by a trial court or administrative agency and for which appellate briefs previously have been filed; and (ii) litigation decided by a trial court or administrative agency and for which appellate briefs have not yet been filed.
- (b) **Track 2: Summary Proceedings:** Claims that the Debtors have determined can be resolved through summary proceedings, including minimal evidentiary presentations and discovery.
- (c) **Track 3: Complex Disputes:** Claims concerning complex, commercial litigation matters, including prepetition lawsuits and large rejection damage claims, the liquidation of which will require more extensive evidentiary presentations and discovery.

**B. Estimation Notice And Estimation Request**

24. In order to provide appropriate notice of a request to estimate a claim pursuant to the Estimation Procedures (an “Estimation Request”), the Debtors will (a) serve the proposed form of notice attached to the Estimation Procedures as Exhibit A (the “Estimation Notice”), the Estimation Request and a copy of the Estimation Procedures (collectively, the “Notice Package”) upon (i) any party whose name appears in the signature block on the proof of claim; (ii) any attorney who has entered a notice of appearance on the claimant’s behalf in the Debtors’ chapter 11 cases; (iii) counsel for the Committees (the “Estimation Service List”); and (b) electronically file the Notice Package with this Court.

25. The Estimation Notice sets forth, among other things, the time and date of the estimation hearing (the “Estimation Hearing”) and the time and date by which a claimant may file and serve a response (a “Response”) to the Estimation Request.

26. The Estimation Request provides, at a minimum: (a) the claim number assigned to the proof of claim on the Debtors’ claims register; (b) the name and address of the claimant; (c) the Track to which the claim will be assigned; (d) the legal and factual basis for the Debtors’ estimation; and (e) the Debtors’ estimation of the appropriate amount of the claim and any evidence supporting this estimation.

**C. Counterclaim**

27. The Debtors may also assert any counterclaims against a claimant (a “Counterclaim”) for purposes of setoff by setting forth in the Estimation Request the legal and factual basis for the Counterclaim, including (a) names of all persons employed by or within the control of the Debtors who are likely to have discoverable information relating to the Counterclaim and (b) any documents that the Debtors may rely upon in support of the Counterclaim.

**D. Response**

28. Within the period set forth for the particular track to which a claim has been assigned, a claimant may file and serve upon the Estimation Service List and the Debtors’ counsel (a) the Response, the proposed scope of which is appended to the Estimation Procedures as Exhibit C, and (b) any documents required to be produced pursuant thereto.

**E. Reply**

29. If a claimant timely serves a Response, the Debtors may, in their discretion, file and serve a reply thereto (the “Reply”). The Reply may include (a) the Debtors’

arguments and defenses with respect to the claim and (b) an affidavit to controvert any evidence supporting the Response. Additionally, if the Debtors determine to assert a Counterclaim against the claimant (that was not originally asserted in the Notice Package), the Debtors may also set forth in the Reply (a) the elements and verified statement of evidence supporting such Counterclaim and (b) disclosures consistent with the disclosures required in the Response.

**F. Settlement**

30. At any time after the service of the Notice Package, the Debtors and a claimant may negotiate a settlement of the estimated amount of a claim. For settlements equal to or less than (i) twenty million dollars (\$20,000,000.00) or (ii) one hundred and twenty percent (120%) of the Debtors' estimation of the claim, the Estimation Procedures provide that a settlement of a claim is subject to a negative notice period of five (5) days. In the absence of any objection, the settlement establishing the amount of an allowed claim is effective and binding on the sixth day. For settlements greater than (i) twenty million dollars (\$20,000,000.00) or (ii) one hundred and twenty percent (120%) of the Debtors' estimation of the claim, the Estimation Procedures provide that the Debtors will file a motion, pursuant to Bankruptcy Rule 9019(a),<sup>6</sup> and request a hearing on regular notice.<sup>7</sup>

31. Any settlement reached between the Debtors and a claimant shall be binding on the affected claimant for all purposes, including but not limited to, the feasibility of, the voting on, and distribution under a plan. Notably, the settlement will not provide for the payment of a claim other than in accordance with a confirmed plan.

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<sup>6</sup> Bankruptcy Rule 9019 is discussed in greater detail below.

<sup>7</sup> The Debtors will provide the Committees with advance notice of any such filings.

**G. Estimation Hearing**

32. Unless otherwise ordered by the Court, an estimation hearing (an “Estimation Hearing”) will be held for each claim on the date specified in the Estimation Notice.

33. If a claimant fails to file a timely Response or fails to comply with any other procedures and requirements in the Estimation Procedures, the Debtors will request at the Estimation Hearing that this Court enter an order estimating and fixing the claim in the amount of the Debtors’ Estimate, without any requirement for argument or further submission.

**H. Other Key Provisions**

34. Status Conferences. If at any time after the claimant files its Response, the Debtors deem it necessary for the Court to hold a status conference, the Estimation Procedures allow for the Court to conduct a status conference on the Debtor’s next regularly scheduled hearing date that is at least three (3) days after the Debtors serve notice on the claimant and the Committees. Unless otherwise stated in the notice or ordered by the Court, the scheduling of a status conference does not stay the estimation proceedings and applicable deadlines.

35. Modification of Procedures for Good Cause Shown. A party can move for modification of the Estimation Procedures for good cause shown. Such a good cause showing must be made no later than the claimant’s Response deadline or the next applicable deadline to which the proposed modification relates.

36. Stay of Pending Claim Objection, Contested Matters of Adversary Proceedings. Once an Estimation Notice is served, any pending claim objection, contested matter or adversary proceeding, is stayed.

## VII. ARGUMENT

37. Section 502(c) of the Bankruptcy Code provides, in pertinent part, that “[t]here shall be estimated for purpose of allowance under this section -- any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case.” 11 U.S.C. § 502(c)(1).<sup>8</sup>

38. Section 502(c) serves a three-fold function. First, it helps a court “avoid the need to await the resolution of outside lawsuits to determine issues of liability or amount owed by means of anticipating and estimating the likely outcome of these actions.” *Beaumont v. Durkay (In re Ford)*, 967 F.2d 1047, 1053 (5th Cir. 1992). Second, it promotes the “fair distribution to creditors through a realistic assessment of uncertain claims.” *Id.* Third, it promotes the administration of the bankruptcy case and the prosecution of the plan process by permitting a determination of plan feasibility. *See Pizza of Hawaii Inc. v. Shakey’s Inc. (In re Pizza of Hawaii Inc.)*, 761 F.2d 1374, 1382 (9th Cir. 1985) (estimation necessary for a determination of plan feasibility); *In re McDonald*, 128 B.R. 161, 164 (Bankr. W.D. Tex. 1991) (stating that estimation was essential to an evaluation of a plan).

39. Section 502(c) of the Bankruptcy Code was designed to give creditors whose claims are contingent the opportunity to prove the amount of the debtor’s potential liability. *See In re Baldwin-United Corp.*, 55 B.R. 885, 899 (Bankr. S.D. Ohio 1985). Any hardship suffered by a creditor whose claim is estimated under section 502(c) of the Bankruptcy Code must be weighed against the “significant hardships” a debtor would suffer if claims had to

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<sup>8</sup> In cases where the fixing or liquidation of a claim would unduly delay the administration of the case, the “duty of estimation . . . under Section 502(c) is not a permissive one; it is a mandatory obligation of the bankruptcy court.” *In re A.H. Robins Co., Inc.*, 788 F.2d 994, 1011-12 (4th Cir. 1986), *cert. denied*, 479 U.S. 876 (1986); *In re Nova Real Estate Investment Trust*, 23 B.R. 62, 65 (Bankr E.D. Va. 1982) (“This language [of Section 502(c)] is mandatory not permissive . . .”).

be allowed in their full amount or if confirmation of the plan was “infinitely delayed” while all claims were liquidated. *Id.*

**A. Bankruptcy Courts Have Wide Latitude to Establish Procedures**

40. The Debtors seek approval of the Estimation Procedures to establish procedures to address the estimation of claims and Counterclaims, as well as provide a structure within which the Debtors can negotiate and settle certain claims.

**(1) *Claims***

41. Bankruptcy courts may estimate claims for all purposes pursuant to section 502(c) of the Bankruptcy Code, including, but not limited to, voting and distribution. *See, e.g., In re Nat’l Gypsum Co.*, 139 B.R. 397, 408-09 (Bankr. N.D. Tex. 1992) (stating that a claim may be estimated for purposes of voting and allowance); *In re MacDonald*, 128 B.R. at 167 (using estimation to determine plan feasibility); *In re Continental Airlines, Inc.*, 57 B.R. 842, 844 (Bankr. S.D. Tex. 1985) (using estimation for voting purposes). The United States Court of Appeals for the Fifth Circuit has stated that a court estimating the amount of a claim should use “whatever method is best suited to the circumstances.” *In re Brits Cotton Marketing, Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984); *see also Bittner v. Borne Chem. Co.*, 691 F.2d 134, 135 (3d Cir. 1982) (estimation requires only “sufficient evidence on which to base a reasonable estimate of the claim”); *In re Hydrox Chemical Co.*, 194 B.R. 617, 623 (Bankr. N.D. Ill. 1996) (court “should use whatever method is best suited to the case contingencies involved”); *In re Windsor Plumbing Supply Co., Inc.*, 170 B.R. 503, 521 (Bankr. E.D.N.Y. 1994) (advocating use of probabilities in estimation of claims rather than more simplistic all or nothing approach); *In re Farley, Inc.*, 146 B.R. 748, 754 (Bankr. N.D. Ill. 1992) (“The Court has broad discretion to determine the best valuation method for the circumstances.”); *In re Baldwin-United Corp.*, 55

B.R. at 898-99 (estimation “does not require that a bankruptcy judge be clairvoyant”). However, no matter what procedure the bankruptcy court uses to estimate a claim, the court must remember the policy underlying chapter 11, that a “reorganization must be accomplished quickly and efficiently.” *Bittner*, 691 F.2d at 137 (citing 124 Cong. Rec. H. 11101-H 11102 (daily ed. Sept. 28, 1978)).

42. Courts have employed a wide variety of methods to estimate claims, including (a) summary trials, (b) a review of written submissions of proposed facts, and (c) a review of the pleadings and briefs. *See Adams v. Cumberland Farms, Inc.*, 86 F.3d 1146, 1996 WL 228567 at \*4 (1st Cir. May 7, 1996) (affirming bankruptcy court’s use of settlement agreement in similar litigation as basis for estimating claim); *In re Zolner*, 173 B.R. 629, 633 (Bankr. N.D. Ill. 1994) (estimation of claim based on expert testimony); *In re Windsor Plumbing Supply Co., Inc.*, 170 B.R. at 517 (estimation procedures limited to the review of documents submitted by the parties); *In re Apex Oil Co.*, 92 B.R. 843, 845 (Bankr. E.D. Mo. 1988) (establishing summary trial procedures for the estimation of claims); *In re Lane*, 68 B.R. 609, 613 (Bankr. D. Hawaii 1986) (court estimated claim by analyzing present value of the likelihood of outcomes possible in pending state court action); *Baldwin-United Corp.*, 55 B.R. at 891-99 (procedures provided for a one-day hearing, allowing one witness per party and no jury). A court does not need to conduct a full trial to estimate a claim, because requiring a formal trial would “eviscerate the purpose underlying [section] 502(c).” *Baldwin-United Corp.*, 55 B.R. at 899.

43. The Estimation Procedures are necessary and appropriate, and are consistent with the procedures established in other large chapter 11 cases. *See, e.g., In re Enron Corp.*, Case No. 01-16034 (AJG) (Bankr. S.D.N.Y. February 18, 2004); *In re UAL Corp.*, Case

No. 02-B-48191 (Bankr. N.D. Ill. February 5, 2004); *In re Kmart, Inc.*, Case No. 02-02474 (SPS) (Bankr. N.D. Ill. Sept. 8, 2003); *In re Global Crossing, Ltd.*, Case No. 02-40188 (REG) (Bankr. S.D.N.Y. Dec. 26, 2002); *In re Trans World Air Lines, Inc, et al.*, Case No. 01-00056 (PJW) (Bankr. N.D. Del. June 14, 2002).

(2) ***Counterclaims***

44. The Debtors believe that it is necessary for the Debtors to be permitted to assert Counterclaims in connection with Estimation Requests. The Estimation Procedures contemplate the assertion of Counterclaims to ensure that ultimate allowed amount of each claim is appropriately reduced by any liabilities the claimants might have to the Debtors.

45. Bankruptcy Rule 3007 provides that, whenever an objection to a proof of claim includes a counterclaim, the objection is automatically converted to an adversary proceeding. *See* Fed. R. Bankr. P. 3007. Since Bankruptcy Rules 7000-7099 apply to adversary proceedings, Bankruptcy Rule 7016, which addresses pre-trial procedures, will apply to the objection to the proof of claim and the counterclaim. *See* Fed. R. Bankr. P. 7001, 7016.

46. Bankruptcy Rule 7016 makes applicable Rule 16 of the Federal Rules of Civil Procedure (the “Federal Rules”). Federal Rule 16 provides trial courts with broad authority to enter orders to “provide for the prompt litigation and disposition of every adversary proceeding and to require strict adherence to the Scheduling Order.” Fed. R. Civ. P. 16. Federal Rule 16 gives courts the power to “achieve the orderly and expeditious disposition of cases.” *See Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-31 (1962); *Spain v. Board of Education of Meridian Community Unit School District No. 101*, 214 F.3d 925, 930 (7th Cir. 2000).

47. Additionally, section 105 of the Bankruptcy Code, discussed in greater detail below, grants bankruptcy courts authority to “issue any order, process, or judgment that is

necessary or appropriate to carry out the provisions of [the Bankruptcy Code or] . . . making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.” 11 U.S.C. § 105(a).

(3) ***Settlements under Bankruptcy Rule 9019(a)***

48. The Debtors expect to resolve consensually a number of claims and therefore request that the Court approve a streamlined procedure for approval of such consensual resolutions. Bankruptcy Rule 9019(a) provides, in part, that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a). Hence, Bankruptcy Rule 9019(a) authorizes the Bankruptcy Court to approve compromises and settlements if they are “fair and equitable and in the best interest of the estate.” *In re Cajun Electric Power Cooperative, Inc.*, 119 F.3d 349, 355 (5th Cir. 1997); *see also In re Zale Corp.*, 62 F.3d 746, 754 (5th Cir. 1995) (stating that “the ‘fair and equitable’ determination does not give the bankruptcy court jurisdiction over settlement conditions that do not bear on the court’s duties to preserve the estate and protect creditors.”). A bankruptcy court has discretion to accept or reject a compromise or settlement. *See* 9 COLLIER ON BANKRUPTCY ¶ 9019.02 (15th ed. Rev. 2001).

49. “Compromises are favored in bankruptcy” because they minimize the costs of litigation and further the parties’ interest in expediting administration of a bankruptcy estate. *In re Martin*, 91 F.3d 389, 393 (3d Cir. 1996) (citing 9 COLLIER ON BANKRUPTCY ¶ 9019.03[1] (15th ed. Rev. 2001)). Although the settlement need not result in the best possible outcome for the debtor, it cannot “fall beneath the lowest point in the range of reasonableness.” *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991).

50. Similar to the streamlined procedures previously approved in these cases pursuant to which the Debtors can reject executory contracts and settle trading contracts and the settlement procedures contained in the Claims Objection Order, the settlement procedures for compromising claims set forth in the Estimation Procedures provide for a “negative notice” period. In other words, if no objection to a settlement is received during the “negative notice” period, the Debtors will request entry of an order approving the settlement and deeming the settlement amounts provided by the stipulations contained therein allowed.

51. The Debtors believe that the settlement procedures will encourage settlement negotiations and result in the settlement of numerous claims without the necessity of burdening the Court and its resources.

**B. The Estimation Procedures Will Benefit the Debtors and their Estates**

52. In determining whether the Estimation Procedures were necessary and appropriate, the Debtors have considered the following factors: (a) whether the proposed procedures are fair and reasonable; (b) whether the proposed procedures will benefit the debtors, their creditors, and their estates; and (c) the need for debtors and claimants to be informed prior to voting for a plan of reorganization and making distribution. After considering these factors, the Debtors believe that they have developed Estimation Procedures that are fair, reasonable, and consistent with the past practices approved in other similar cases.

**(1) *The Estimation Procedures Are Fair And Reasonable***

53. The Estimation Procedures are fair and reasonable under the circumstances. The Estimation Procedures provide a streamlined method, utilizing estimation as permitted by the Bankruptcy Code, to efficiently resolve the myriad issues attendant to the estimation and resolution of the claims. To the extent possible, the Debtors have adopted and

incorporated the requirements and timeframes of certain analogous or relevant Federal Rules and Bankruptcy Rules into the Estimation Procedures.

54. For example, Track 1 concerns the estimation of claims that were already determined by a lower court and are now on review to a court of appeals. The Estimation Procedures provide for the preparation or submission of appellate briefs to this Court, as well as require the parties to submit appendices consistent with Bankruptcy Rule 8009(b). Bankruptcy Rule 8009(b) identifies the documents that must be included in an appendix to a brief submitted to a bankruptcy appellate panel:

- (1) the complaint and answer or other equivalent pleadings;
- (2) any pretrial order;
- (3) the judgment, order, or decree from which the appeal is taken;
- (4) any other orders relevant to the appeal;
- (5) the opinion, findings of fact, or conclusions of law filed or delivered orally by the court and citations of the opinion if published;
- (6) any motion and response on which the court rendered decision;
- (7) the notice of appeal;
- (8) the relevant entries in the bankruptcy docket; and
- (9) the transcript or portions thereof, if so required by a rule of the bankruptcy appellate panel.

Fed. R. Bankr. P. 8009(b).<sup>9</sup>

55. By requiring Track 1 parties to submit appendices consistent with the requirements of Bankruptcy Rule 8009(b), the Debtors ensure that this Court receives all relevant pleadings and orders regarding the litigation of the claim at the trial court and also provides the claimants with the same protections offered by the Bankruptcy Rules. In any case, regardless of whether appellate briefs were submitted to a reviewing court prepetition, claimants subject to a

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<sup>9</sup> Rule 8009(b) also authorizes an appellee to file an appendix that contains material required to be included by the appellant but omitted by the appellant. The Estimation Procedures authorize a claimant to supplement the record consistent with that provision of Rule 8009(b).

Track 1 Estimation Request are permitted the opportunity to file papers with the Bankruptcy Court substantiating their claims.

56. The Estimation Request and Response procedures are another example of the Debtors' efforts to utilize the Federal Rules and Bankruptcy Rules in formulating the Estimation Procedures. The requirements for both the Estimation Request and Response mirror the disclosures mandated by Rule 26 of the Federal Rules of Civil Procedure. These disclosures are appropriate because they are identical to the disclosures required by parties in non-bankruptcy cases, which include:

- (A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information;
- (B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment;
- (C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and
- (D) for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Fed. R. Civ. P. 26.

57. Application of Federal Rule 26, which governs discovery in federal litigation, will provide (a) sufficient documentation to this Court, the claimants, and the Debtors concerning the dispute arising from the claims and (b) protection of the due process rights of the claimants.

58. None of the Tracks allow for an Estimation Hearing to occur earlier than thirty days after the service of a Notice Package. The proposed period of time between the service of a Notice Package and the Estimation Hearing (which in most cases under the procedures is no less than forty-five days and is sixty days for complex disputes) is consistent with Bankruptcy Rule 3007: “A copy of the objection with notice of the hearing shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession and the trustee at least 30 days prior to the hearing.” Fed. R. Bankr. P. 3007.

59. The Debtors believe that the time periods outlined in Bankruptcy Rule 3007 are appropriate because by filing a proof of claim against the Debtors’ estates in their cases, the claimant has, in effect, commenced a lawsuit against the respective Debtor. By filing an Estimation Request, the respective Debtor (as a defendant) is filing a response to this lawsuit, and permitting the claimant (as a plaintiff) to file a reply. Based on this procedural posture, the Debtors believe that the timeframes established by the Estimation Procedures are appropriate.

60. Finally, the Debtors intend to serve the Notice Package upon Estimation Service List, which includes any party who signed the proof of claim subject to estimation and any counsel for that party who has made an appearance in the bankruptcy case. The Debtors believe that such service satisfies the requirements of Bankruptcy Rule 7004. The Debtors recognize that Bankruptcy Rule 7004 could be read to require service of an objection to a proof of claim on an officer or agent of the company that filed the objectionable proof of claim. Rule 7004(b)(3) provides, in pertinent part: “[s]ervice may be made . . . as follows: . . . Upon a domestic or foreign corporation . . . by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or, to any other agent authorized by appointment . . . to receive service of process.” F.R.B.P. 7004(b)(3). However, this portion of

Rule 7004(b)(3) could also reasonably be read to allow for service upon the “authorized agent” who signed the proof of claim.<sup>10</sup>

61. This Court previously authorized service upon (i) the party whose name appears on the signature block of the proof of claim and (ii) any party who made an appearance in these cases on behalf of the claimant in connection with the Claims Objection Procedures. The Debtors similarly request that the order establishing the Estimation Procedures clearly state that the Notice Packages need only be served on (i) the person who signed the proof of claim and (ii) any counsel or party who made an appearance in this case on behalf of that party as opposed to an officer of the claimant. Service upon those parties as representatives of the claimant is especially appropriate in the context of the Estimation Procedures where, due to the size and complexity of the claims, the claimants are likely to have counsel who has filed a notice of appearance in these cases.

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<sup>10</sup> Generally, courts determining whether an individual is a “general” or “managing” agent, for purposes of establishing service pursuant to F.R.C.P. 4(h)(1) and Bankruptcy Rule 7004(b)(3), consider whether the individual is in a position of sufficient responsibility so that it is reasonable to assume that the person will transmit notice of the commencement of the action to organizational superiors. *See Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 688-89 (9th Cir. 1988) (service on receptionist who played a significant role in the structure of the corporation constituted valid service of process); *Maruzen Int’l Co. v. Bridgeport Merchandise, Inc.*, 770 F. Supp. 155, 159-60 (S.D.N.Y. 1991) (service on national sales manager proper because position in corporation rendered it just and reasonable to imply authority to accept service of process of corporation’s behalf); *In re Village Craftsman, Inc.*, 160 B.R. 740 (Bankr. D.N.J. 1993) (utility properly served when motion was sent to the address utility designated on its proof of claim as address to which all notices to utility should be addressed, even though the motion was not addressed to an officer or agent); *Zisman v. Sieger*, 106 F.R.D. 194 (D.C. Ill. 1985) (sales assistant “in charge of office” is managing or general agent for purposes of rule). It is reasonable to assume that the individual who signed a proof of claim is acting as an agent of the entity filing the proof of claim for purposes of service of a Notice Package. It is also reasonable to assume that the individual who signed the proof of claim will provide notice of the Notice Package to the appropriate parties.

(2) ***The Estimation Procedures Will Benefit the Debtors, Their Estates, and Their Creditors***

62. The Estimation Procedures will speed the administration of the Debtors' chapter 11 cases, avoid undue burden on the Debtors and their estates and relieve an otherwise massive burden on this Court's resources. The Estimation Procedures provide the Debtors and the claimants an opportunity to reach a consensual settlement regarding certain claims. Additionally, the Estimation Procedures provide procedures to prosecute and achieve a final resolution regarding these claims in an equitable and efficient manner.

(3) ***Claimants Require Information Prior to Voting on the Debtors' Plan of Reorganization and Distributions Are Made***

63. The Debtors are moving as efficiently as possible on all fronts in their chapter 11 cases. However, as noted above, the resolution of certain claims (the liquidation of which could impact recoveries under a plan) is essential for the plan process. An estimated range of recovery on allowed amounts of these claims is necessary in order to permit meaningful negotiations between the Debtors and their creditors, as well as to provide creditors with sufficient information to vote on any proposed plan of reorganization.

64. Although the Debtors have initiated and conducted omnibus claims objection proceedings to begin to resolve a significant number of claims, certain factual realities regarding a number of claims could make resolution of the claims extraordinarily difficult, particularly if constrained by typical claims litigation timeframes. The foregoing supports approval of the Estimation Procedures. *See, e.g., In re Lane*, 68 B.R. 609, 611 (Bankr. D. Haw. 1986) ("What is relevant to the instant case is how long it will take before the [creditor's] claim will be liquidated and determined by the state court."); *In re MacDonald*, 128 B.R. at 168 n.6

(estimation appropriate where trial would take two weeks and district court could not hear it for two years).

**C. Section 105 Authorizes the Establishment of Estimation Procedures**

65. In addition to section 502(c), section 105 of the Bankruptcy Code also grants this Court the authority to enter an order to assist in the administering of the Debtors' estates, including, through approving the Estimation Procedures.

66. Section 105(a) of the Bankruptcy Code allows this Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). Under section 105(a) of the Bankruptcy Code, the Court has expansive equitable power to fashion any order or decree that is in the interest of preserving or protecting the value of the debtor's assets. *See, e.g., Coie v. Sadkin (In re Sadkin)*, 36 F.3d 473, 478 (5th Cir. 1994) ("Section 105(a) authorizes a bankruptcy court to fashion such orders as are necessary to further the substantive provisions of the Bankruptcy Code.") (quotation omitted); *Chinichian v. Campolongo (In re Chinichian)*, 784 F.2d 1440, 1443 (9th Cir. 1986) ("Section 105 sets out the power of the bankruptcy court to fashion orders as necessary pursuant to the purposes of the Bankruptcy Code.") (citation omitted). *See also Bird v. Crown Convenience (In re NWFEX, Inc.)*, 864 F.2d 588, 590 (8th Cir. 1988) ("The overriding consideration in bankruptcy . . . is that equitable principles govern.") (citations omitted); *In re Cooper Properties Liquidating Trust, Inc.*, 61 B.R. 531, 537 (Bankr. W.D. Tenn. 1986) ("[T]he Bankruptcy Court is one of equity and as such it has a duty to protect whatever equities a debtor may have in property for the benefit of its creditors so long as that protection is implemented in a manner consistent with the bankruptcy laws.") (citation omitted).

67. In light of the size of the Debtors' chapter 11 cases and because estimation of the significant disputed, unliquidated and contingent claims is required to timely administer them, the relief sought herein also is appropriate pursuant to section 105 of the Bankruptcy Code.

**D. Notice of the Estimation Procedures Is Good and Sufficient**

68. The Debtors served notice that the Debtors are seeking approval to establish procedures for estimating claims against the estates on all known creditors of the Debtors.<sup>11</sup> That notice provides information concerning this Motion (and hearing on this Motion) and directs parties to [www.alixpartners.com/cms](http://www.alixpartners.com/cms) to download copies of this Motion and the Estimation Procedures.

69. As noted, this Motion and notice of hearing and status conference were served upon the claimants who filed Material Tier IV Claims.

70. Upon entry of an order establishing the Estimation Procedures, the Debtors propose to publish notice of the establishment of estimation procedures, including a summary of the Estimation Procedures, in *The Wall Street Journal, National Edition* and *USA Today*, similar to the manner in which the notices of the Bar Date and Claims Objection Order were published.

**VIII. CONCLUSION**

71. The Debtors have designed these estimation and settlement procedures to ensure the efficient and equitable resolution of certain claims with the least possible impact and cost to the Debtors and their estates, their creditors, and this Court. The Estimation Procedures,

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<sup>11</sup> However, in an effort to conserve resources, the Debtors did not serve the Notice on the approximately 4,800 proofs of claim identified by the Equity Motion as based on ownership of an equity interest. As these proofs of claim are being converted to proofs of interest, the Estimation Procedures will be inapplicable. Therefore, the Debtors respectfully submit that no additional notice of the procedures is required.

including the assignment of claims to Tracks, will ensure that the claimants receive appropriate due process protection, conserve the resources of these estates, assist the Court in effectively administering the claims and serve the interests of all parties in interest. Additionally, the Debtors submit that asserting Counterclaims as part of the Estimation Request will enhance the likelihood that the ultimate allowed claim is accurate and will minimize the chance that the Debtors will be forced to move the Court for subsequent additional relief.

WHEREFORE, based upon the foregoing, the Debtors respectfully request that the Court enter an order (i) approving the proposed Estimation Procedures, (ii) providing that any claim estimated pursuant to the Estimation Procedures is binding for all purposes, including but not limited to, the feasibility of, the voting on, and distribution under a chapter 11 plan of reorganization for the Debtors and (iii) fixing notice procedures in connection with the Estimation Procedures and approving the form and manner of notice for estimation and resolution of certain proofs of claim filed against the Debtors.

Dated: September 13, 2004

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that she provided a true and correct copy of the foregoing Motion and Notice of Motion to Bankruptcy Services, LLC on September 13, 2004 and directed them to effect service upon all persons identified below (the Material Tier IV Claimants) and on the Limited Service List via U.S. first class mail.

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SAN FRANCISCO, CA 9411

/s/ \_\_\_\_\_ Michelle C. Campbell

## EXHIBIT A

### CLAIMS ESTIMATION PROCEDURES

*In re Mirant Corporation, et. al.*

#### A. Overview of Claims Estimation Procedures.

These procedures for the estimation of claims pursuant to section 502(c) of the Bankruptcy Code (the “Estimation Procedures”) have been approved by the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division (the “Bankruptcy Court”) in the jointly administered chapter 11 cases (the “Chapter 11 Cases”) currently pending with respect to Mirant Corporation and its debtor subsidiaries (collectively, the “Debtors”). The Estimation Procedures were established for the purpose of facilitating the Debtors’ emergence from Chapter 11 protection by streamlining the process of allowing certain claims, the liquidation of which would otherwise cause undue delay, or the estimation of any claim against any of the Debtors’ (a “Claim”) that, in accordance with the Estimation Procedures, will be binding for all purposes, including, but not limited to, feasibility of, voting on and distribution under a chapter 11 plan of reorganization for the Debtors.

#### B. Notice Package.

The Notice Package includes (a) the Estimation Notice, (b) the Estimation Request and (c) a copy of the Estimation Procedures.

1. Estimation Notice. The approved form of notice of intent to estimate (the “Estimation Notice”) is attached hereto as Exhibit A. The Estimation Notice states, among other things, the time and date of the estimation hearing (the “Estimation Hearing”) and the time and date that the holder of the Claim to be estimated (the “Claimant”) must file and serve a response (a “Response”) to the Estimation Request.

2. Estimation Request. The approved scope of the information to be included in a request to estimate a Claim pursuant to the Estimation Procedures, is attached hereto as Exhibit B (the “Estimation Request”). The Estimation Request must, among other things, state (a) the claim number assigned to the proof of claim on the Debtors’ claims register, (b) the name and address of the Claimant, (c) the “Track” to which the Claim will be assigned for purposes of preparation for and appearance at the Estimation Hearing, (d) the Debtors’ estimation of the total amount of the Claim that should be allowed (“Debtors’ Estimate”), (e) the legal and factual bases for the Debtors’ Estimate, and (f) the evidence the Debtors intend to rely on in support of the Debtors’ Estimate. With the exception of the matters included under item (f) above, absent further order of the Court, the Estimation Request may not exceed twenty-five (25) pages.

3. Service of Notice Package. The Notice Package must be (a) served via first-class mail and overnight delivery, email or facsimile upon (i) the Claimant, (ii) any party whose name appears in the signature block on the proof of claim, (iii) any attorney who has entered a notice of appearance on the Claimant’s behalf in the Debtors’ chapter 11 cases, (iv) counsel for each of the official committees (collectively, the “Committees”) appointed in the Debtors’ chapter 11 cases (the parties listed in (i)-(iv) above, collectively, the “Estimation Service List”); and (b) filed

electronically with the Clerk of the Bankruptcy Court.

4. Stay of Pending Claim Objections and Adversary Proceedings. Unless otherwise stated in the Estimation Notice, the service of a Notice Package operates as an automatic stay of any pending claim objection, contested matter or adversary proceeding involving the liquidation of the Claim that is the subject of the Notice Package. The Debtors may move the Court for additional relief under section 105(a) of the Bankruptcy Code for a stay of an action or proceeding pending in another forum, including, but not limited to, an administrative agency.

C. **Estimation of Claims.**

1. Assignment of Claim to Track. Each Estimation Request shall identify the Track to which the Claim has been assigned.<sup>1</sup>

a. **Track 1: Prepetition Litigation on Appeal.**

i. Litigation decided by a trial court or administrative agency and for which appellate briefs previously have been filed.

- (A) The Notice Package will include copies of the appellate briefs and an appendix consistent with Bankruptcy Rule 8009(b).
- (B) No later than twenty (20) days after the service of the Notice Package, the Claimant may electronically file with the Clerk of the Bankruptcy Court and serve its response to the Debtors' Estimate, which, absent further order of the Court, may not exceed twenty-five (25) pages.
- (C) The Estimation Hearing will take place no earlier than thirty (30) days after the date of service of the Notice Package.
- (D) The Claimant and the Debtors are each entitled to thirty (30) minutes of oral argument during the Estimation Hearing, after which the Court will estimate the Claim.

ii. Litigation decided by a trial court or administrative agency and for which appellate briefs have **not** yet been filed.

- (A) The Notice Package will include an appendix consistent with Bankruptcy Rule 8009(b).

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<sup>1</sup> The Debtors and the Claimant may agree, at any time, to change the Track to which the Claim is assigned without Court order. Tracks are assigned on a per-Claim, as opposed to per-Claimant, basis (*e.g.*, one proof of claim may include Claims that are assigned to separate tracks).

- (B) No later than twenty (20) days after the service of the Notice Package, the Claimant may electronically file with the Clerk of the Bankruptcy Court and serve its response to Debtors' Estimate, which, absent further order of the Court, shall not exceed twenty-five (25) pages (excluding evidentiary submissions). The Claimant may file an appendix to supplement the record filed by the Debtors consistent with Bankruptcy Rule 8009(b).
- (C) No later than ten (10) days after the service of the Claimant's response, the Debtors may file their reply, which, absent further order of the Court, shall not exceed ten (10) pages (excluding evidentiary submissions).
- (D) The Estimation Hearing will occur no earlier than forty-five (45) days after the date of service of the Notice Package.
- (E) The Claimant and the Debtors are each entitled to thirty (30) minutes of oral argument during the Estimation Hearing, after which the Court will estimate the Claim.

iii. **No discovery or testimony is permitted in Track 1.**

b. **Track 2: Summary Proceedings.**

- i. No later than twenty (20) days of the date of service of the Notice Package, the Claimant may electronically file with the Clerk of the Bankruptcy Court and serve (a) its response to the Debtors' Estimate in accordance with Paragraph E.1 below, and (b) the affidavits of not more than three (3) witnesses substantiating the Claim and any other documentary evidence (including any and all expert reports) substantiating the Claim.
- ii. No later than ten (10) days after the service of the Claimant's response, the Debtors may electronically file with the Clerk of the Bankruptcy Court and serve a reply in accordance with Paragraph F below.
- iii. The Estimation Hearing will occur no earlier than forty-five (45) days after the date of service of the Notice Package.
- iv. Any evidentiary objections must be asserted no later than three (3) business days before the Estimation Hearing. Parties are required to work in good faith to reach agreement regarding stipulations of admissibility of any evidence to be presented to the Court. Evidence will be presented to the Court in accordance with local practice, procedures and any applicable local bankruptcy rules.

- v. The Claimant and the Debtors are each entitled to thirty (30) minutes of oral argument during the Estimation Hearing, after which the Court will estimate the Claim.
- vi. **No discovery or live testimony is permitted in Track 2.**

c. **Track 3: Complex Disputes.**

- i. No later than thirty (30) days of the date of service of the Notice Package, the Claimant may electronically file with the Clerk of the Bankruptcy Court and serve (a) a response to the Debtors' Estimate in accordance with Paragraph E.1 below, and (b) the affidavits of up to five (5) witnesses substantiating the Claim and any other documentary evidence (including any and all expert reports) substantiating the Claim.
- ii. No later than twenty (20) days after the service of the Claimant's response, the Debtors may electronically file with the Clerk of the Bankruptcy Court and serve a reply in accordance with Paragraph F below.
- iii. Any evidentiary objections must be asserted no later than five (5) business days before the Estimation Hearing. Parties are required to work in good faith to reach agreement regarding stipulations of admissibility of any evidence to be presented to the Court. Evidence will be presented to the Court in accordance with local practice, procedures and any application local bankruptcy rules.
- iv. The Estimation Hearing will occur no earlier than sixty (60) days after the date of service of the Notice Package.
- v. During the Estimation Hearing, except as otherwise ordered by the Court, the Claimant and the Debtors are each entitled to (a) one (1) hour of oral argument; (b) three (3) hours to cross-examine the opposing party's affiants, and (c) one (1) hour to present any rebuttal testimony and evidence. Thereafter, the Court will estimate the Claim.
- vi. **No direct testimony is permitted during the Estimation Hearing, and additional discovery is permitted only in accordance with Paragraph C.2. below.**

2. Discovery Period. Before a Track 3 Estimation Hearing, the Claimant and Debtors may request additional discovery:

- a. Depositions.
  - i. By the Debtors. After submission of the Response, the Debtors may take the deposition of each of any affiants supporting the Response. Each deposition will last no longer than three (3) hours.
  - ii. By the Claimant. After service of the Estimation Notice, the Claimant may take the deposition of each of any affiants supporting the Estimation Request. Each deposition will last no longer than three (3) hours.
- b. Document Requests. After filing and service of the Response, the Debtors and Claimant may request that the other party produce documents relevant to the estimation of the Claim that were not filed with the Notice Package or Response. All such requests must be made no later than three (3) business days after the service of the Claimant's response. The recipient of a document request must produce responsive documents no later than ten (10) days after receipt of the document request.
- c. Discovery by Parties Other Than Claimant or Debtors. Absent agreement by the Debtors or Bankruptcy Court order, parties in interest other than the Debtors and the Claimant are not entitled to take discovery in connection with estimation proceedings. Any request to take discovery made by a party in interest other than the Debtors or Claimant must be electronically filed with the Clerk of the Bankruptcy Court with the Court and served via email and overnight delivery on the Estimation Service List, Debtors' counsel and the Claimant, no later than three (3) days after service of the Response. The Bankruptcy Court will hold a hearing on any such request during the next regularly scheduled hearing date that is at least two (2) days after the request is made.

D. Debtors' Counterclaims. For purposes of set-off, the Debtors may assert any counterclaims (each, a "Counterclaim") against a Claimant whose Claim is the subject of an Estimation Request by setting forth in the Estimation Request the legal and factual bases for the Counterclaim, including names of all persons employed by or within the control of the Debtors who are likely to have discoverable information relating to the Counterclaim and any documents that the Debtors may rely upon in support of the Counterclaim.

E. Claimant's Response.

1. Response. Within the applicable response period, the Claimant must electronically file with the Clerk of the Bankruptcy Court and serve via overnight delivery and email (if practicable) a response to the Debtors' Estimate containing the information set forth in Exhibit C attached hereto; and any information and documents required to be produced in accordance thereto, upon the Estimation Service List and counsel for the Debtors. Absent further order of the Court, the Claimant's response may not exceed twenty-five (25) pages (excluding evidentiary submissions).

2. **Claimant's Response to Counterclaim.** If the Debtors assert a Counterclaim in the Estimation Request, the Claimant must electronically file with the Clerk of the Bankruptcy Court and serve a Response (the "Counterclaim Response") containing the information set forth in **Exhibit C** attached hereto. The Counterclaim Response must be filed and **serve via overnight delivery and email** (if practicable) upon the Estimation Service List and counsel for the Debtors within thirty (30) days of the date of service of the Counterclaim.

3. **Failure to File Response.** If a Claimant fails to file and serve a timely Response in compliance with these procedures, the Bankruptcy Court may enter an order estimating and fixing the Claim in the amount of the Debtors' Estimate, without any requirement for argument or further submission.

4. **Failure to Comply with Estimation Procedures.** If either party fails to comply with the procedures and requirements, including, but not limited to, the discovery requirements set forth herein, the opposing party may request at the Estimation Hearing that the Bankruptcy Court enter an order estimating and fixing the Claim in the amount sought by such party without any requirement for argument or further submission.

F. **Debtors' Reply.**

If a Claimant timely serves a Response, the Debtors may, in their discretion, pursuant to the requirements set forth for the Track to which the Claim has been assigned, electronically file with the Clerk of the Bankruptcy Court and serve a Reply upon the Claimant and the Estimation Service List. The Reply may include (a) the Debtors' arguments and defenses with respect to the Debtors' Estimate, and (b) affidavits controverting any evidence supporting the Response as well as any additional affidavits substantiating the Debtors' Estimate. If the Debtors assert a Counterclaim against the Claimant (that was not asserted in the Notice Package), the Debtors may also set forth in the Reply the elements supporting such Counterclaim, and provide disclosures consistent with the disclosures required in the Response.

G. **Estimation Hearing.**

1. **Hearing.** Unless otherwise ordered by the Bankruptcy Court, an Estimation Hearing will be held for each Claim on the date specified in the Estimation Notice.

2. **Evidentiary and Legal Record.** The Bankruptcy Court will not consider any evidence unless submitted by the Claimant or the Debtors in accordance with these Estimation Procedures; **provided, however,** that the Bankruptcy Court may allow or require additions to the record, including but not limited to, newly discovered evidence, when deemed necessary or appropriate.

3. **Resolution.** Following the parties' submission to the Bankruptcy Court of proposed findings of fact and conclusions of law and any post-trial briefs, the Bankruptcy Court will estimate the relevant Claims and Counterclaims for all purposes, including for purposes of feasibility of, voting on and distribution under a chapter 11 plan of reorganization of the Debtors. Nothing in these Estimation Procedures will be construed to limit either the Debtors' or a Claimant's valid right of setoff to the extent available under state law as preserved under section 553 of the Bankruptcy Code, or a Claimant's valid right of recoupment under non-bankruptcy

law. Pursuant to section 502(d) of the Bankruptcy Code, any Claim of a Claimant from which property is recoverable under section 542, 543, 550, or 553 or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548 or 549 of the Bankruptcy Code will be disallowed, unless such Claimant has paid the amount or turned over such property under section 522(i), 542, 543, 550, or 553.

H. **Settlement of Claim Amount.**

1. At any time after the service of the Notice Package, the Debtors and a Claimant may negotiate a settlement of the allowed amount of the Claim (the “Settled Claim Amount”).

2. **Settlements Not Requiring Court Approval.**

a. If the Settled Claim Amount is equal to or less than (i) Twenty Million Dollars (\$20,000,000.00), or (ii) one hundred and twenty percent (120%) the Debtors’ Estimate, the Debtors will electronically file with the Clerk of the Bankruptcy Court and serve upon the affected Claimant and the Estimation Service List a “Notice of Settled Claim Amount” setting forth the Settled Claim Amount.

b. **Objections.** Any objection to the Settled Claim Amount must be electronically filed with the Clerk of the Bankruptcy Court and served via overnight delivery and email (if practicable) upon (1) counsel for the Debtors, (2) the affected Claimant and (3) the Estimation Service List, on or before the fifth (5<sup>th</sup>) day after filing and service of the Notice of Settled Claim Amount.

c. **Effective Date of Settled Claim Amount.** A Settled Claim Amount is effective and binding upon all parties in interest on the 6th day after the date of service of the Notice of Settled Claim Amount without further Bankruptcy Court order if there are no timely objections to the Settled Claim Amount.

d. **Hearing.** If a party in interest timely files an objection to Settled Claim Amount, the Bankruptcy Court will hold a hearing for approval of the Settled Claim Amount under Bankruptcy Rule 9019 on the next regularly scheduled Mirant hearing date. The Notice Package, any Response or Reply filed in accordance with these Estimation Procedures and the Notice of Settled Claim Amount will constitute the record for any hearing for approval of Settled Claim Amount (“Rule 9019 Record”).

3. **Settlements Requiring Court Approval.**

a. If the Settled Claim Amount exceeds (i) Twenty Million Dollars (\$20,000,000.00), or (ii) one hundred and twenty percent (120%) of the Debtors’ Estimate, the Debtors will electronically file with the Clerk of the Bankruptcy Court a motion for approval of the Settled Claim Amount under Bankruptcy Rule 9019(a) (“Rule 9019 Motion”).

- b. Objections. Any objection to the Rule 9019 Motion must be electronically filed with the Clerk of the Bankruptcy Court and served via overnight delivery and email (if practicable) upon (1) counsel for the Debtors, (2) the affected Claimant and (3) the Estimation Service List, not later than five (5) business days before the first scheduled hearing on the Rule 9019 motion.
- c. Hearing. The Rule 9019 Motion will be set for hearing on the next regularly scheduled Mirant hearing date that is not less than twenty (20) days after the date on which the Rule 9019 motion was filed.
- d. Effective Date of Settled Claim Amount. The Settled Claim shall be effective and binding upon all parties in interest upon the entry by the Bankruptcy Court of an order granting the Rule 9019 Motion.

4. Bankruptcy Court Approval Not Granted. If the Bankruptcy Court does not approve the Settled Claim Amount, the Debtors, at their discretion, may elect to (a) engage in further negotiation with the Claimant or (b) deem settlement negotiations terminated and seek to estimate the Claim pursuant to the Estimation Procedures Order.

5. Binding Nature and Payment of Claims. Settled Claim Amounts approved pursuant to the procedures above, are binding on the affected Claimant for all purposes, including but not limited to, feasibility of, the voting on and distribution under a chapter 11 plan of reorganization for the Debtors. Under no circumstance may a settlement described above provide for the payment of a Claim other than in accordance with a confirmed chapter 11 plan of reorganization in the Debtors' chapter 11 cases.

6. Committees' Review of Proposed Settlements. The Debtors must provide the Committees with:

- a. three (3) days notice before filing a Notice of Settled Claim Amount that is between \$0 and \$5,000,000, and
- b. five (5) days notice before filing (1) a Notice of Settled Claim Amount that exceed \$5,000,000 or (2) is the subject of a Rule 9019 Motion.

#### **I. Miscellaneous Provisions.**

1. Unless otherwise ordered by the Bankruptcy Court, the information required to be provided in the Estimation Request, the Response or the Reply is deemed to satisfy the mandatory disclosure required by Rule 26 of the Federal Rules of Civil Procedure, as applicable pursuant to Bankruptcy Rule 9014.

2. Participation by the Committees. The Committees reserve their rights under the Bankruptcy Code and Federal Rules of Bankruptcy Procedure to participate in the proceedings described in these Estimation Procedures.

3. Reservation of Rights.

- a. The Debtors hereby reserve the right to withdraw any Estimation Request and object to any Claim identified in an Estimation Request on any ground pursuant to the “Order Establishing Procedures for Objections to Proofs of Claim” or further Bankruptcy Court order.
- b. The Debtors hereby reserve the right to move the Bankruptcy Court for the entry of an order approving alternative estimation procedures with respect to any proof of claim filed against the Debtors’ estates at the Debtors’ sole discretion.

4. Modification of Procedures for Good Cause Shown. The Debtors or any party in interest may move for modification of these Estimation Procedures for good cause shown. A good cause showing must be made no later than the applicable Response deadline, or the next applicable deadline to which the proposed modification relates. Absent written agreement between the Debtors and the Claimant modifying these procedures, the Court will determine whether good cause exists to modify the procedures at the next regularly scheduled Mirant hearing date that is at least three (3) days after the modification request is made.

5. Status Conferences. At any time after the Claimant electronically files with the Clerk of the Bankruptcy Court and serves a Response, a discovery request or any other pleading, the Debtors may determine that a status conference in advance of the Estimation Hearing is necessary. The Bankruptcy Court will conduct such a status conference on the next regularly scheduled Mirant hearing date that is at least three (3) days after the Debtors serve on the Claimant and Estimation Service List notice that a status conference has been scheduled. Unless otherwise stated in the notice of status conference or ordered by the Bankruptcy Court, the scheduling of a status conference does not stay the estimation proceedings or toll any applicable deadlines.

6. Applicability of Laws and Rules. Except as set forth herein, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the local rules of the Bankruptcy Court, the Federal Rules of Civil Procedure and the Federal Rules of Evidence apply to these Estimation Procedures and the estimation proceedings.

7. Not Applicable to Intercompany and Insider Claims. Absent further Bankruptcy Court order, these Estimation Procedures apply only to the estimation of Claims held by parties that are not one of the Debtors and are not intended to be utilized to facilitate the estimation of intercompany or insider claims.

Exhibit A

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

In re	)	
	)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u> ,	)	Case No. 03-46590-DML
	)	Jointly Administered
Debtors.	)	Estimation Hearing Date and Time:
	)	[ _____ ], 2004 at 10:30 a.m.
	)	

**NOTICE OF INTENT TO ESTIMATE (“ESTIMATION NOTICE”)  
PROOF OF CLAIM FILED BY \_\_\_\_\_ (NUMBER 0000)  
ASSIGNED TO TRACK [ ]**

**PLEASE TAKE NOTICE** that Mirant Corporation and its chapter 11 debtor affiliates (collectively, “Mirant”) intend to estimate the proof(s) of claim (the “Claim”) you filed against Mirant’s bankruptcy estates pursuant to the attached Estimation Procedures. The “*Order Approving Claims Estimation Procedures*” (the “Estimation Procedures Order”) entered by the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”) on \_\_\_\_\_, 2004 authorizes Mirant to serve this Estimation Notice and commence a proceeding to estimate the amount of your Claim. A copy of the Estimation Procedures Order is attached hereto and is also available on the Internet at [www.alixpartners.com/cms](http://www.alixpartners.com/cms). A hearing to establish the amount of your Claim (an “Estimation Hearing”) described below **will** result in a binding estimation of the amount of your Claim for purposes of feasibility of, voting on and distribution under a chapter 11 plan of reorganization for Mirant. **Accordingly, you should read this Estimation Notice carefully and fully comply with the procedures set forth herein.**

**PLEASE TAKE FURTHER NOTICE** that Mirant is seeking an order of the Bankruptcy Court estimating the amount of your Claim because Mirant has determined that the fixing or liquidation of your Claim would unduly delay the administration of Mirant’s chapter 11 cases. The attached Estimation Request includes (a) Mirant’s estimation of the total amount of the Claim that should be allowed (the “Debtors’ Estimate”) and (b) the substantive basis and documentation underlying Mirant’s determination of the Debtors’ Estimate.

**PLEASE TAKE FURTHER NOTICE** that, if you disagree with the Debtors’ Estimate, you will be given the opportunity to appear before the Bankruptcy Court to establish the amount of your Claim, but you must serve a Response to this Estimation Notice in accordance with the procedures set forth herein and in the Estimation Procedures Order.

**PLEASE TAKE FURTHER NOTICE** that a hearing to establish the amount of your Claim will take place on [     ], at [     ] a.m. **If you disagree with the Debtors’ Estimate, you must file and serve a Response in accordance with this Notice and the Estimation Procedures Order and attend the Estimation Hearing. In the event that you fail to comply with the Estimation Procedures, the Debtors may request at the Estimation Hearing that the Bankruptcy Court enter an order estimating and fixing the Claim in the amount of the Debtors’ Estimate assigned to the Claim in the Estimation Request, with no argument or further submission.**

**PLEASE TAKE FURTHER NOTICE** that by \_\_\_\_\_ (the “Response Deadline”), you must file with the Bankruptcy Court and serve via overnight delivery and email (if practicable) a

Response to the Estimation Request, on the following parties: (a) J. Christopher Shore, Esq., attorneys for the Debtors, White & Case LLP, 1155 Avenue of the Americas, New York, NY 10036, email: cshore@whitecase.com; and Michelle C. Campbell, Esq., attorneys for the Debtors, White & Case LLP, 633 West Fifth Street, Los Angeles, CA 90071, email: mcampbell@whitecase.com; (b) attorneys for the Official Unsecured Creditors' Committee for Mirant Americas Generation, LLC, [\_\_\_\_\_] , email: [\_\_\_\_\_]; (c) Monica S. Blacker, Esq., attorneys for the Official Unsecured Creditors' Committee for Mirant Corporation, Andrews Kurth LLP, 1717 Main Street, Suite 3700, Dallas, TX 75201, email: monicablacker@andrewskurth.com; and (d) Leslie H. Scharf, Esq., attorneys for the Official Committee of Equity Security Holders for Mirant Corporation, Brown Rudnick Berlack Israels LLP, 120 West 45th Street, New York, New York 10036, email: [lscharf@brownrudnick.com](mailto:lscharf@brownrudnick.com).

**PLEASE TAKE NOTICE** that your Response should include all the information set forth in Exhibit C, attached to the Estimation Procedures annexed hereto, and the documents requested to be produced in connection with the Response.

**PLEASE TAKE NOTICE** that Mirant personnel will be available to discuss and potentially settle the Debtors' Estimate prior to the Estimation Hearing. To facilitate such a discussion, you may call [\_\_\_\_\_] at [ ] at any time before the Response deadline. [\_\_\_\_\_] , or another appropriate Mirant representative, will be available to handle factual inquiries regarding this Estimation Notice, the Debtors' Estimate or the Estimation Request. Legal matters, however, will be referred to Mirant's attorneys.

Your discussions with [\_\_\_\_\_] , Mirant personnel or Mirant's attorneys may result in an agreement to settle the Debtors' Estimate (as defined in the Estimation Procedures Order). If you do not reach a written agreement with Mirant before the Response Deadline, you **must** file a Response, in compliance with the procedures set forth in the Estimation Procedures.

**PLEASE TAKE FURTHER NOTICE** that nothing in this Estimation Notice or the accompanying Estimation Request constitutes a waiver of Mirant's right to assert any claims, counterclaims, rights of offset or recoupment, preference actions, fraudulent transfer actions, or any other bankruptcy or nonbankruptcy claims against you. Mirant also reserves the right to assert objections to your Claim.

**PLEASE TAKE FURTHER NOTICE** that you may obtain copies of any proof of claim filed against Mirant's bankruptcy estates on the internet at: [www.alixpartners.com/cms](http://www.alixpartners.com/cms). If you do not have access to the Internet, you can request a copy of any proof of claim from Bankruptcy Services, Inc., 757 Third Avenue, 3rd Floor, New York, NY 10017.

Dated: [\_\_\_\_\_] , 2004  
By:

## Exhibit B

### SCOPE OF ESTIMATION REQUEST

The Estimation Request should include the following:

1. The claim number assigned to the proof of claim on the Debtors' claims register;
2. The name and address of the Claimant;
3. The Track to which the Claim is assigned;
4. The basis for seeking estimation of the Claim pursuant to section 502(c) of the Bankruptcy Code ;
5. The Debtors' Estimate;
6. The legal and factual bases for the Debtors' Estimate; and
7. Evidence supporting the Debtors' Estimate, including the affidavits of persons who can substantiate the Debtors' Estimate and any documents that the Debtors may rely upon in support of the Estimation Request; provided, however, nothing herein relieves the parties of their obligations under any confidentiality agreements with respect to any of these documents.

## EXHIBIT C

### SCOPE OF THE RESPONSE

The scope of Claimant's response should include the following:

1. Claim number(s) on docket;
2. Amount of Claim (if this amount differs from your filed Claim, please provide an explanation);
3. Debtor entities against which Claims are asserted;
4. Full legal name of Claimant;
5. Name, address(es), telephone number, and facsimile number of the person(s) (who may be the Claimant and/or the Claimant's legal representative) on whom the Debtors' attorneys should serve any Reply to the Response;
6. Brief description of the nature of the Claim, to the extent not already included in Claim;
7. A description of the factual and legal basis of the Claim (including a description of the contract, breach, event, incident, relationship, etc. giving rise to the Claim);
8. A copy of all documents and other evidence concerning or providing a factual or legal basis for the Claim or that the Claimant intends to use in any way in the estimation proceeding;
9. Names, addresses, telephone numbers, and any other applicable contact information of any third parties implicated by the Claim and/or named in litigation giving rise to the Claim;
10. A detailed description of the damages sought, including a calculation of and support for such damages that would sustain scrutiny in a court of law; and
11. Any expert reports upon which you intend to rely during the Estimation Hearing.

*\*Note that the Bankruptcy Court may nevertheless consider any Counterclaim asserted by the Debtors as a defense or offset in connection with estimation of your Claim.*

**Exhibit B**  
**Material Tier IV Claims**

Pending Proceeding Re: Claim

Claim #	Debtor	Name	Total	
7044	Mirant Services, LLC	BROWN, JAMES & WALLER, GREG	\$ 50,000,000	
7057	Mirant Corporation	BROWN, JAMES & WALLER, GREG	50,000,000	
6594	Mirant Sugar Creek, LLC	BURNS & MCDONNELL ENGINEERING	12,133,576	
7203	Mirant Potrero, LLC	CA INDEPENDENT SYSTEM OPERATOR CORP.	29,910,079	X
7205	Mirant Delta, LLC	CA INDEPENDENT SYSTEM OPERATOR CORP.	340,139,664	X
7549	Mirant Potrero, LLC	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7550	Mirant Delta, LLC	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7551	Mirant California, LLC	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7552	Mirant California Investments, Inc.	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7553	Mirant Americas, Inc.	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7554	Mirant Americas Energy Marketing, LP	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7555	Mirant Corporation	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7556	Mirant Potrero, LLC	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7557	Mirant Delta, LLC	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7558	Mirant California, LLC	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7559	Mirant California Investments, Inc.	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7560	Mirant Americas, Inc.	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7561	Mirant Americas Energy Marketing, LP	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
7562	Mirant Corporation	CALIFORNIA DEPT OF WATER RESOURCES &	-	X
6540	Mirant Corporation	CALIFORNIA POWER EXCHANGE	-	
6531	Mirant Americas Energy Marketing, LP	CALIFORNIA POWER EXCHANGE CORPORATION	333,905	X
7529	Mirant Potrero, LLC	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
7530	Mirant Delta, LLC	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
7531	Mirant California, LLC	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
7532	Mirant Americas, Inc.	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
7533	Mirant Americas Generation, LLC	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
7534	Mirant Americas Energy Marketing, LP	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
7535	Mirant Corporation	CALIFORNIA PUBLIC UTILITIES COMMISSION	2,105,230,800	X
4649	Mirant Corporation	CALIFORNIANS FOR RENEWABLE ENERGY, INC.	469,854,000	X
7231	Mirant Kendall, LLC	DICK CORPORATION	32,250,208	
4610	Mirant EcoElectrica Investments I, Ltd.	EDISON MISSION ENERGY	93,584,063	
4612	Mirant Corporation	EDISON MISSION ENERGY	92,797,388	
4613	Puerto Rico Power Investments, Ltd.	EDISON MISSION ENERGY	93,584,063	
4608	Mirant EcoElectrica Investments I, Ltd.	EME DEL CARIBE	93,584,063	
4609	Puerto Rico Power Investments, Ltd.	EME DEL CARIBE	93,584,063	
6862	Mirant Corporation	ENRON CORP.	136,000,000	
6864	Puerto Rico Power Investments, Ltd.	ENRON CORP.	136,000,000	
6865	Mirant EcoElectrica Investments I, Ltd.	ENRON CORP.	136,000,000	
6007	Wrightsville Power Facility, LLC	ENTERGY ARKANSAS INC	8,241,498	
6265	Mirant Corporation	GOLDMAN, SACHS & CO., ET AL.	-	
6266	Mirant Corporation	GOLDMAN, SACHS & CO., ET AL.	-	
6522	Mirant Fund 2001, LLC	GUNDERBOOM INC.	23,100,000	
6524	Mirant Capital, Inc.	GUNDERBOOM INC.	23,100,000	
6525	Mirant Capital Management, LLC	GUNDERBOOM INC.	23,100,000	
6526	Mirant Corporation	GUNDERBOOM INC.	23,100,000	
5487	Mirant Corporation	JERRY EGGER, ET AL	100,000,000	
5488	Mirant Americas Energy Marketing, LP	JERRY EGGER, ET AL	100,000,000	

**Exhibit B**  
**Material Tier IV Claims**

Claim #	Debtor	Name	Total	
5489	Mirant Americas Generation, LLC	JERRY EGGER, ET AL	100,000,000	
5490	Mirant Americas, Inc.	JERRY EGGER, ET AL	100,000,000	
5491	Mirant California, LLC	JERRY EGGER, ET AL	100,000,000	
5492	Mirant Delta, LLC	JERRY EGGER, ET AL	100,000,000	
5493	Mirant Potrero, LLC	JERRY EGGER, ET AL	100,000,000	
5494	Mirant California Investments, Inc.	JERRY EGGER, ET AL	100,000,000	
5442	Mirant Corporation	KELLY & MEENAGH, ESQS.	41,000,000	
7573	Mirant Americas Energy Marketing, LP	KERN RIVER GAS TRANSMISSION COMPANY	210,210,543	
7126	Mirant Wrightsville Management, Inc.	KINDER MORGAN POWER COMPANY	-	
7132	Mirant Wrightsville Investments, Inc.	KINDER MORGAN POWER COMPANY	-	
7135	Mirant Americas Energy Marketing, LP	KINDER MORGAN POWER COMPANY	-	
7137	Mirant Americas, Inc.	KINDER MORGAN POWER COMPANY	-	
7141	Wrightsville Development and Funding, LLC	KINDER MORGAN POWER COMPANY	-	
7142	Wrightsville Power Facility, LLC	KINDER MORGAN POWER COMPANY	-	
7250	Mirant Americas Generation, LLC	MESQUITE INVESTORS, LLC	29,250,000	
7251	Mirant Corporation	MESQUITE INVESTORS, LLC	29,250,000	
7252	Mirant Corporation	MESQUITE INVESTORS, LLC	29,250,000	
7254	Mirant Americas, Inc.	MESQUITE INVESTORS, LLC	29,250,000	
6515	Mirant Potrero, LLC	PACIFIC GAS AND ELECTRIC	29,201,588	X
6516	Mirant Delta, LLC	PACIFIC GAS AND ELECTRIC COMPANY	337,383,184	X
6517	Mirant Americas Energy Marketing, LP	PACIFIC GAS AND ELECTRIC COMPANY	5,486,600	
6724	Mirant Potrero, LLC	PACIFIC GAS AND ELECTRIC COMPANY	29,001,588	X
6725	Mirant Delta, LLC	PACIFIC GAS AND ELECTRIC COMPANY	337,383,184	X
6244	Mirant Potrero, LLC	PAUL R. KIESEL	500,000,000	
6245	Mirant Corporation	PAUL R. KIESEL	500,000,000	
6246	Mirant Americas Energy Marketing, LP	PAUL R. KIESEL	500,000,000	
6247	Mirant Delta, LLC	PAUL R. KIESEL	500,000,000	
6248	Mirant California, LLC	PAUL R. KIESEL	500,000,000	
6261	Mirant Corporation	PERRYVILLE ENERGY PARTNERS, LLC	1,015,651,565	X
6262	Mirant Americas, Inc.	PERRYVILLE ENERGY PARTNERS, LLC	98,650,000	X
6263	Mirant Americas, Inc.	PERRYVILLE ENERGY PARTNERS, LLC	98,650,000	X
6264	Mirant Americas, Inc.	PERRYVILLE ENERGY PARTNERS, LLC	177,178,391	X
6474	Mirant Potomac River, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6475	Mirant Piney Point, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6476	Mirant Peaker, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6477	Mirant Mid-Atlantic Services, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6478	Mirant MD Ash Management, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6479	Mirant D.C. O&M, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6480	Mirant Chalk Point, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6481	Mirant Mid-Atlantic, LLC	POTOMAC ELECTRIC POWER COMPANY	131,242,447	
6482	Mirant Americas Energy Marketing, LP	POTOMAC ELECTRIC POWER COMPANY	26,242,447	
6483	Mirant Americas Energy Marketing, LP	POTOMAC ELECTRIC POWER COMPANY	105,000,000	
6484	Mirant Corporation	POTOMAC ELECTRIC POWER COMPANY	105,000,000	
6496	Mirant Corporation	POTOMAC ELECTRIC POWER COMPANY	26,242,447	
5934	Mirant Corporation	PREDATOR DEVELOPMENT COMPANY, LLC	15,000	
5935	Mirant Americas Energy Capital, LP	PREDATOR DEVELOPMENT COMPANY, LLC	15,000	
5937	Mirant Americas Energy Capital Assets, LLC	PREDATOR DEVELOPMENT COMPANY, LLC	15,000	
7255	Mirant Americas, Inc.	SHADY HILLS HOLDING COMPANY, LLC	15,750,000	

**Exhibit B**  
**Material Tier IV Claims**

Claim #	Debtor	Name	Total	
7257	Mirant Americas Generation, LLC	SHADY HILLS HOLDING COMPANY, LLC	15,750,000	
7258	Mirant Corporation	SHADY HILLS HOLDING COMPANY, LLC	15,750,000	
7259	Mirant Corporation	SHADY HILLS HOLDING COMPANY, LLC	15,750,000	
7717	Mirant Corporation	SHANNON GRACEY RATLIFF & MILLER, LLP	-	
5944	Mirant Americas Energy Marketing, LP	SOUTHERN CALIFORNIA EDISON COMPANY	-	X
5945	Mirant Corporation	SOUTHERN CALIFORNIA EDISON COMPANY	-	X
5946	Mirant California, LLC	SOUTHERN CALIFORNIA EDISON COMPANY	-	X
5947	Mirant Americas Generation, LLC	SOUTHERN CALIFORNIA EDISON COMPANY	-	X
6643	Mirant Americas Energy Marketing, LP	SOUTHERN CALIFORNIA WATER COMPANY	-	
6296	Mirant Capital Management, LLC	SOUTHERN COMPANY	-	
6297	Mirant Capital, Inc.	SOUTHERN COMPANY	-	
6298	Mirant Central Texas, LP	SOUTHERN COMPANY	-	
6299	Mirant Chalk Point Development, LLC	SOUTHERN COMPANY	-	
6300	Mirant Chalk Point, LLC	SOUTHERN COMPANY	-	
6301	Mirant D.C. O&M, LLC	SOUTHERN COMPANY	-	
6302	Mirant Danville, LLC	SOUTHERN COMPANY	-	
6303	Mirant Canal, LLC	SOUTHERN COMPANY	241,353	
6306	Mirant Delta, LLC	SOUTHERN COMPANY	-	
6307	Mirant Americas Energy Marketing, LP	SOUTHERN COMPANY	-	
6310	Mirant Corporation	SOUTHERN COMPANY	-	
6311	Mirant Americas Energy Marketing, LP	SOUTHERN COMPANY	-	
6312	Mirant Americas Generation, LLC	SOUTHERN COMPANY	-	
6313	Mirant Mid-Atlantic, LLC	SOUTHERN COMPANY	-	
6314	Mirant Americas, Inc.	SOUTHERN COMPANY	-	
6315	Mirant Texas Management, Inc.	SOUTHERN COMPANY	-	
6316	Mirant Texas Investments, Inc.	SOUTHERN COMPANY	-	
6317	Mirant Sugar Creek, LLC	SOUTHERN COMPANY	-	
6318	Mirant Corporation	SOUTHERN COMPANY	-	
6319	Mirant Sugar Creek Holdings, Inc.	SOUTHERN COMPANY	-	
6320	Mirant Americas Gas Marketing I, LLC	SOUTHERN COMPANY	-	
6321	Mirant Americas Gas Marketing II, LLC	SOUTHERN COMPANY	-	
6322	Mirant Americas Gas Marketing III, LLC	SOUTHERN COMPANY	-	
6323	Mirant Americas Gas Marketing IV, LLC	SOUTHERN COMPANY	-	
6324	Mirant Americas Gas Marketing V, LLC	SOUTHERN COMPANY	-	
6325	West Georgia Generating Company, LLC	SOUTHERN COMPANY	-	
6326	Shady Hills Power Company, LLC	SOUTHERN COMPANY	-	
6327	Mirant Zeeland, LLC	SOUTHERN COMPANY	-	
6328	Mirant Wyandotte, LLC	SOUTHERN COMPANY	-	
6329	Mirant Wichita Falls, LP	SOUTHERN COMPANY	-	
6330	Mirant Wichita Falls Management, Inc.	SOUTHERN COMPANY	-	
6331	Mirant Wichita Falls Investments, Inc.	SOUTHERN COMPANY	-	
6332	Mirant Texas, LP	SOUTHERN COMPANY	-	
6333	Mirant Corporation	SOUTHERN COMPANY	-	
6334	Mirant Corporation	SOUTHERN COMPANY	-	
6335	Mirant EcoElectrica Investments I, Ltd.	SOUTHERN COMPANY	-	
6336	Mirant Americas Gas Marketing XV, LLC	SOUTHERN COMPANY	-	
6337	Mirant Americas Procurement, Inc.	SOUTHERN COMPANY	-	
6338	Mirant Americas Production Company	SOUTHERN COMPANY	-	

**Exhibit B**  
**Material Tier IV Claims**

Claim #	Debtor	Name	Total
6339	Mirant Americas Retail Energy Marketing, LP	SOUTHERN COMPANY	-
6340	Mirant Bowline, LLC	SOUTHERN COMPANY	-
6341	Mirant California Investments, Inc.	SOUTHERN COMPANY	-
6342	Mirant California, LLC	SOUTHERN COMPANY	-
6343	Mirant Canal, LLC	SOUTHERN COMPANY	-
6344	Hudson Valley Gas Corporation	SOUTHERN COMPANY	-
6345	Mint Farm Generation, LLC	SOUTHERN COMPANY	-
6346	Mirant Americas Development Capital, LLC	SOUTHERN COMPANY	-
6347	Mirant Americas Development, Inc.	SOUTHERN COMPANY	-
6348	Mirant Americas Energy Marketing Investments, Inc.	SOUTHERN COMPANY	-
6349	Mirant Corporation	SOUTHERN COMPANY	-
6350	Mirant Americas Energy Marketing, LP	SOUTHERN COMPANY	-
6351	Mirant Americas Generation, LLC	SOUTHERN COMPANY	-
6352	Mirant Mid-Atlantic, LLC	SOUTHERN COMPANY	-
6353	Mirant Americas, Inc.	SOUTHERN COMPANY	-
6354	Hudson Valley Gas Corporation	SOUTHERN COMPANY	-
6355	Mint Farm Generation, LLC	SOUTHERN COMPANY	-
6356	Mirant Americas Development Capital, LLC	SOUTHERN COMPANY	-
6357	Mirant Americas Development, Inc.	SOUTHERN COMPANY	-
6358	Mirant Americas Energy Marketing Investments, Inc.	SOUTHERN COMPANY	-
6359	Mirant Americas Gas Marketing I, LLC	SOUTHERN COMPANY	-
6360	Mirant Americas Gas Marketing II, LLC	SOUTHERN COMPANY	-
6361	Mirant Americas Gas Marketing III, LLC	SOUTHERN COMPANY	-
6362	Mirant Americas Gas Marketing IV, LLC	SOUTHERN COMPANY	-
6363	Mirant Americas Gas Marketing V, LLC	SOUTHERN COMPANY	-
6364	Mirant Americas Gas Marketing VI, LLC	SOUTHERN COMPANY	-
6365	Mirant Americas Gas Marketing VII, LLC	SOUTHERN COMPANY	-
6366	Mirant Americas Gas Marketing VIII, LLC	SOUTHERN COMPANY	-
6367	Mirant Texas Investments, Inc.	SOUTHERN COMPANY	-
6368	Mirant Sugar Creek, LLC	SOUTHERN COMPANY	-
6369	Mirant Corporation	SOUTHERN COMPANY	-
6370	Mirant Sugar Creek Holdings, Inc.	SOUTHERN COMPANY	-
6371	Mirant Special Procurement, Inc.	SOUTHERN COMPANY	-
6372	Mirant Services, LLC	SOUTHERN COMPANY	-
6373	Mirant Potrero, LLC	SOUTHERN COMPANY	-
6374	Mirant Potomac River, LLC	SOUTHERN COMPANY	-
6375	Mirant Wichita Falls Investments, Inc.	SOUTHERN COMPANY	-
6376	Mirant Texas, LP	SOUTHERN COMPANY	-
6377	Mirant Texas Management, Inc.	SOUTHERN COMPANY	-
6378	Mirant Wichita Falls Management, Inc.	SOUTHERN COMPANY	-
6379	Mirant Zeeland, LLC	SOUTHERN COMPANY	-
6380	Mirant Wyandotte, LLC	SOUTHERN COMPANY	-
6381	Mirant Wichita Falls, LP	SOUTHERN COMPANY	-
6382	West Georgia Generating Company, LLC	SOUTHERN COMPANY	-
6383	Shady Hills Power Company, LLC	SOUTHERN COMPANY	-
6384	Mirant EcoElectrica Investments I, Ltd.	SOUTHERN COMPANY	-
6385	Mirant Corporation	SOUTHERN COMPANY	-
6386	Mirant Wrightsville Management, Inc.	SOUTHERN COMPANY	-

**Exhibit B**  
**Material Tier IV Claims**

Claim #	Debtor	Name	Total
6387	Wrightsville Development and Funding, LLC	SOUTHERN COMPANY	-
6388	Mirant Special Procurement, Inc.	SOUTHERN COMPANY	-
6389	Mirant Capital, Inc.	SOUTHERN COMPANY	-
6390	Mirant Capital, Inc.	SOUTHERN COMPANY	-
6391	Mirant Potomac River, LLC	SOUTHERN COMPANY	-
6392	Mirant Potrero, LLC	SOUTHERN COMPANY	-
6393	Mirant Services, LLC	SOUTHERN COMPANY	-
6394	Mirant Portage County, LLC	SOUTHERN COMPANY	-
6395	Mirant Piney Point, LLC	SOUTHERN COMPANY	-
6396	Mirant Peaker, LLC	SOUTHERN COMPANY	-
6397	Mirant Parker, LLC	SOUTHERN COMPANY	-
6398	Mirant NY-Gen, LLC	SOUTHERN COMPANY	-
6399	Mirant New York, Inc.	SOUTHERN COMPANY	-
6400	Mirant New England, Inc.	SOUTHERN COMPANY	-
6401	Mirant Mid-Atlantic Services, LLC	SOUTHERN COMPANY	-
6402	Mirant Michigan Investments, Inc.	SOUTHERN COMPANY	-
6403	Mirant MD Ash Management, LLC	SOUTHERN COMPANY	-
6404	Mirant Lovett, LLC	SOUTHERN COMPANY	-
6405	Mirant Las Vegas, LLC	SOUTHERN COMPANY	-
6406	Mirant Americas Gas Marketing VII, LLC	SOUTHERN COMPANY	-
6407	Mirant Americas Gas Marketing VI, LLC	SOUTHERN COMPANY	-
6408	Mirant D.C. O&M, LLC	SOUTHERN COMPANY	-
6409	Mirant Danville, LLC	SOUTHERN COMPANY	-
6410	Mirant Capital, Inc.	SOUTHERN COMPANY	-
6411	Mirant Capital Management, LLC	SOUTHERN COMPANY	-
6412	Mirant Canal, LLC	SOUTHERN COMPANY	-
6413	Mirant California, LLC	SOUTHERN COMPANY	-
6414	Mirant Corporation	SOUTHERN COMPANY	-
6415	Mirant California Investments, Inc.	SOUTHERN COMPANY	-
6416	Mirant Bowline, LLC	SOUTHERN COMPANY	-
6417	Mirant Americas Retail Energy Marketing, LP	SOUTHERN COMPANY	-
6418	Mirant Americas Gas Marketing XV, LLC	SOUTHERN COMPANY	-
6419	Mirant Americas Procurement, Inc.	SOUTHERN COMPANY	-
6420	Mirant Americas Production Company	SOUTHERN COMPANY	-
6421	Mirant Americas Gas Marketing XIII, LLC	SOUTHERN COMPANY	-
6422	Mirant Americas Gas Marketing XIV, LLC	SOUTHERN COMPANY	-
6423	Mirant Americas Gas Marketing VIII, LLC	SOUTHERN COMPANY	-
6424	Mirant Americas Gas Marketing IX, LLC	SOUTHERN COMPANY	-
6425	Mirant Americas Gas Marketing X, LLC	SOUTHERN COMPANY	-
6426	Mirant Americas Gas Marketing XI, LLC	SOUTHERN COMPANY	-
6427	Mirant Americas Gas Marketing XII, LLC	SOUTHERN COMPANY	-
6428	Mirant Intellectual Asset Management and Marketing, LLC	SOUTHERN COMPANY	-
6429	Mirant Kendall, LLC	SOUTHERN COMPANY	-
6430	Mirant Las Vegas, LLC	SOUTHERN COMPANY	-
6431	Mirant Lovett, LLC	SOUTHERN COMPANY	-
6432	Mirant Gastonia, LLC	SOUTHERN COMPANY	-
6433	Mirant Fund 2001, LLC	SOUTHERN COMPANY	-

**Exhibit B**  
**Material Tier IV Claims**

Claim #	Debtor	Name	Total
6434	Mirant Dickerson Development, LLC	SOUTHERN COMPANY	-
6435	Mirant Delta, LLC	SOUTHERN COMPANY	-
6436	Mirant Chalk Point, LLC	SOUTHERN COMPANY	-
6437	Mirant Chalk Point Development, LLC	SOUTHERN COMPANY	-
6438	Mirant Central Texas, LP	SOUTHERN COMPANY	-
6439	Mirant Peaker, LLC	SOUTHERN COMPANY	-
6440	Mirant Piney Point, LLC	SOUTHERN COMPANY	-
6441	Mirant Portage County, LLC	SOUTHERN COMPANY	-
6442	Mirant NY-Gen, LLC	SOUTHERN COMPANY	-
6443	Mirant Parker, LLC	SOUTHERN COMPANY	-
6444	Mirant MD Ash Management, LLC	SOUTHERN COMPANY	-
6445	Mirant Michigan Investments, Inc.	SOUTHERN COMPANY	-
6446	Mirant Mid-Atlantic Services, LLC	SOUTHERN COMPANY	-
6447	Mirant New England, Inc.	SOUTHERN COMPANY	-
6448	Mirant New York, Inc.	SOUTHERN COMPANY	-
6449	Mirant Corporation	SOUTHERN COMPANY	-
6450	Mirant Corporation	SOUTHERN COMPANY	-
6451	Mirant Wrightsville Management, Inc.	SOUTHERN COMPANY	-
6452	Wrightsville Development and Funding, LLC	SOUTHERN COMPANY	-
6453	Wrightsville Power Facility, LLC	SOUTHERN COMPANY	-
6454	Mirant Wrightsville Investments, Inc.	SOUTHERN COMPANY	-
6455	Mirant Americas Gas Marketing X, LLC	SOUTHERN COMPANY	-
6456	Mirant Americas Gas Marketing XI, LLC	SOUTHERN COMPANY	-
6457	Mirant Americas Gas Marketing XII, LLC	SOUTHERN COMPANY	-
6458	Mirant Americas Gas Marketing XIII, LLC	SOUTHERN COMPANY	-
6459	Mirant Americas Gas Marketing XIV, LLC	SOUTHERN COMPANY	-
6460	Mirant Corporation	SOUTHERN COMPANY	-
6461	Mirant Wrightsville Investments, Inc.	SOUTHERN COMPANY	-
6462	Wrightsville Power Facility, LLC	SOUTHERN COMPANY	-
6463	Mirant Dickerson Development, LLC	SOUTHERN COMPANY	-
6464	Mirant Fund 2001, LLC	SOUTHERN COMPANY	-
6465	Mirant Gastonia, LLC	SOUTHERN COMPANY	-
6466	Mirant Intellectual Asset Management and Marketing, LLC	SOUTHERN COMPANY	-
6467	Mirant Kendall, LLC	SOUTHERN COMPANY	-
6468	Mirant Americas Gas Marketing IX, LLC	SOUTHERN COMPANY	-
7043	Mirant Corporation	SOUTHERN COMPANY SERVICES INC	114,362
6304	West Georgia Generating Company, LLC	SOUTHERN COMPANY SERVICES, INC. AS AGENT	1,089
6305	West Georgia Generating Company, LLC	SOUTHERN COMPANY SERVICES, INC. AS AGENT	3,132
6308	Mirant Canal, LLC	SOUTHERN COMPANY SERVICES, INC. AS AGENT	182,795
7102	Mirant Kendall, LLC	ST. PAUL COMPANY	14,449,900
6512	Mirant Corporation	TRANSCANADA PIPELINES LIMITED	103,465,842
7265	Mirant Americas Generation, LLC	WISNIAK, GIL	-
7811	Mirant Americas Generation, LLC	WISNIAK, GIL ON BEHALF OF HIMSELF, ET AL	-
7125	Wrightsville Power Facility, LLC	WRIGHTSVILLE DEVELOPMENT FUNDING, L.L.C.	-
7127	Mirant Wrightsville Management, Inc.	WRIGHTSVILLE DEVELOPMENT FUNDING, L.L.C.	-
7133	Mirant Wrightsville Investments, Inc.	WRIGHTSVILLE DEVELOPMENT FUNDING, L.L.C.	-
7138	Mirant Americas, Inc.	WRIGHTSVILLE DEVELOPMENT FUNDING, L.L.C.	-

***Exhibit B***  
***Material Tier IV Claims***

Claim #	Debtor	Name	Total
7128	Mirant Wrihtsville Management, Inc.	WRIGHTSVILLE POWER FACILITY, L.L.C.	-
7134	Mirant Wrihtsville Investments, Inc.	WRIGHTSVILLE POWER FACILITY, L.L.C.	-
7136	Mirant Americas Energy Marketing, LP	WRIGHTSVILLE POWER FACILITY, L.L.C.	-
7139	Mirant Americas, Inc.	WRIGHTSVILLE POWER FACILITY, L.L.C.	-
7140	Wrihtsville Development and Funding, LLC	WRIGHTSVILLE POWER FACILITY, L.L.C.	-

\$ 23,987,736,756