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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.	)	
	)	
_____	)	

**MOTION FOR APPROVAL OF AGREEMENT PURSUANT TO RULE 4001(d)  
OF FEDERAL RULES OF BANKRUPTCY PROCEDURE**

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

Mirant Corporation (“Mirant”), Mirant Americas Energy Marketing, LP (“MAEM”) and its affiliated debtors (collectively with Mirant and MAEM, the “Debtors”), as debtors and debtors-in-possession, file this “Motion For Approval Of Agreement Pursuant To Rule 4001(d) Of Federal Rules Of Bankruptcy Procedure” (the “Motion”). In support thereof, the Debtors represent as follows:

1. Attached hereto is a true and correct copy of the “Agreed Order By and Between Mirant Americas Energy Marketing, LP, Dominion Transmission, Inc. and Dominion Cove Point LNG, L.P. Providing for the Setoff of Prepetition Claims Against Certain Collateral”

(the "Agreed Order") entered into by and between MAEM, Dominion Transmission, Inc. and Dominion Cove Point LNG, L.P.

**NOTICE**

**NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT, ELDON B. MAHON U.S. COURTHOUSE, 501 WEST TENTH STREET, FORT WORTH, TEXAS 76102-3643, AND A COPY OF THE RESPONSE IS RECEIVED BY JULY 9, 2004 BY 4:00 P.M. (PREVAILING CENTRAL TIME).**

**ANY RESPONSE MUST BE IN WRITING AND FILED WITH THE CLERK AND A COPY MUST BE SERVED UPON COUNSEL AS SET FORTH ABOVE PRIOR TO THE TIME AND DATE SET FORTH HEREIN. IF A RESPONSE IS FILED, A HEARING WILL BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.**

**IF NO RESPONSE IS TIMELY FILED AND RECEIVED AS SET FORTH ABOVE, THE RELIEF REQUESTED IN THE MOTION SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER A FINAL ORDER GRANTING SUCH RELIEF.**

**WHEREFORE**, based upon the foregoing, the Debtors request that the Court approve the attached Agreed Order and grant the Debtors any other relief that is necessary and proper.

Dated: Fort Worth, Texas  
June 24, 2004

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By: /s/ Ian T. Peck  
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-and-

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ATTORNEYS FOR THE DEBTORS AND  
DEBTORS-IN-POSSESSION

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing document upon all persons on the Limited Service List and upon all parties listed below via United States first class mail, postage prepaid, on the 24<sup>th</sup> day of June, 2004 in accordance with the Federal Rules of Bankruptcy Procedure:

Bruce J. Ruzinsky  
C. Larry Carbo III  
Jackson Walker L.L.P.  
1401 McKinney  
Suite 1900  
Houston, Texas 77010

/s/ Ian T. Peck

**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.	)	
	)	

**AGREED ORDER BY AND BETWEEN MIRANT AMERICAS ENERGY  
MARKETING, LP, DOMINION TRANSMISSION, INC., AND  
DOMINION COVE POINT LNG, L.P. PROVIDING FOR THE SETOFF  
OF PREPETITION CLAIMS AGAINST CERTAIN COLLATERAL**

Upon the Motion of the Debtors for an Order Modifying the Automatic Stay, Mirant Americas Energy Marketing, LP (“MAEM”), Dominion Transmission, Inc. (“DTI”), and Dominion Cove Point LNG, L.P. (“Cove Point”) (collectively, the “Parties”), by and through their undersigned counsel, hereby agree as follows:

**RECITALS**

1. Commencing on July 14, 2003, and concluding in the early morning hours of July 15, 2003 (the “Petition Date”), Mirant Corporation (“Mirant”) and certain of its affiliated debtors, including MAEM (collectively, the “Initial Debtors”), filed voluntary petitions in the United States Bankruptcy Court for the Northern District of Texas (the “Court”) for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”).<sup>1</sup> From time to time thereafter, additional debtors (the “Additional

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

Debtors”) have filed voluntary petitions in this Court for relief under the Bankruptcy Code.

2. On July 15, 2003, the Court granted the motion for an order requesting that the bankruptcy estates of the Initial Debtors be jointly administered. Pursuant to various orders entered thereafter, this Court has granted the joint administration of the Additional Debtors with the bankruptcy estates of the Initial Debtors. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

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

4. On April 7, 2004, this Court authorized the United States Trustee 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 United States Trustee appointed William K. Snyder as the examiner in these cases.

5. Mirant and its direct and indirect subsidiaries, including MAEM, comprise one of the world’s largest generators and marketers of electricity. MAEM buys and sells electricity throughout the United States, including within the electric power grid located in Texas.

6. DTI, headquartered in Clarksburg, West Virginia, is the interstate gas transmission subsidiary of Dominion Resources, Inc. (“Dominion”). Primarily a provider of gas

transportation and storage services, DTI operates the world's largest underground natural gas storage system.

7. Cove Point is located on the Chesapeake Bay in Cove Point, Maryland and is the liquefied natural gas import subsidiary of Dominion. Cove Point is the nation's largest liquefied natural gas import facility.

8. Prior to the Petition Date, DTI and Cove Point entered into certain natural gas transmission agreements with MAEM (collectively, the "Transmission Agreements") whereby DTI and Cove Point agreed to provide natural gas transportation and storage services to MAEM (the "Transmission Services") in exchange for MAEM's agreement to pay for the Transmission Services as set forth in the Transmission Agreements.

9. Prior to the Petition Date, MAEM, pursuant to the applicable tariffs, provided to DTI cash deposits in the amount of \$2,570,458.00 (the "DTI Collateral") and provided to Cove Point cash deposits in the amount of \$113,400.00 (the "Cove Point Collateral" and, together with the DTI Collateral, the "Collateral") to secure amounts owed by MAEM for Transmission Services under the Transmission Agreements.

10. On or about August 6, 2003, DTI invoiced MAEM for a total of \$211,243.04 for Transmission Services provided to MAEM during the month of July, 2003. As a result of the filing of MAEM's chapter 11 case, MAEM only paid DTI a total of \$117,345.39 arising from postpetition Transmission Services in July, leaving an unpaid balance of \$93,897.65 arising from prepetition Transmission Services in July.

11. On or about July 4, 2003, Cove Point invoiced MAEM for a total of \$5,684.01 for prepetition Transmission Services provided to MAEM during the month of June, 2003. As a result of the filing of MAEM's chapter 11 case, MAEM was unable to pay Cove

Point these amounts, leaving an unpaid balance of \$5,684.01 arising from prepetition Transmission Services in June.

12. On or about August 5, 2003, Cove Point invoiced MAEM for a total of \$8,491.90 for Transmission Services provided to MAEM during the month of July, 2003. As a result of the filing of MAEM's chapter 11 case, MAEM only paid Cove Point a total of \$3,865.00 arising from postpetition Transmission Services in July, leaving an unpaid balance of \$4,626.90 arising from prepetition Transmission Services in July.

13. Accordingly, the Parties agree that as of the Petition Date, MAEM owes DTI the amount of \$93,897.65 for unpaid prepetition Transmission Services (the "DTI Claims"), and Cove Point the amount of \$10,310.91 for unpaid prepetition Transmission Services (the "Cove Point Claims" and, together with the DTI Claims, the "Claims"). DTI and Cove Point acknowledge that there are no other amounts owed by MAEM to either DTI or Cove Point arising from prepetition transactions between the parties other than the Claims set forth herein.

14. DTI has not applied the DTI Claims against the DTI Collateral, and Cove Point has not applied the Cove Point Claims against the Cove Point Collateral.<sup>2</sup>

15. On or about December 22, 2003, MAEM provided Cove Point with a letter of credit in the amount of \$113,400.00 for the benefit of Cove Point (the "Cove Point Letter of Credit") as postpetition collateral under the applicable tariffs. In exchange, on or about June 7, 2004, Cove Point returned \$103,081.13 representing the Cove Point Collateral less the Cove Point Claims. The unreturned portion of the Cove Point Collateral was retained by Cove

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<sup>2</sup> The Debtors assert that as a result of the filing of the Debtors' chapter 11 cases, the automatic stay prevents (i) DTI from applying the DTI Claims against the DTI Collateral, and (ii) Cove Point from applying the Cove Point Claims against the Cove Point Collateral. DTI and Cove Point dispute the application of the automatic stay, and contend that they have rights of recoupment that are not subject to the automatic stay. Entry of this Order will render the disagreement moot.

Point to maintain security for the Cove Point Claims (the “Cove Point Remaining Collateral”). Upon the execution of this Stipulation and approval of this Stipulation by the Court, Cove Point shall be entitled to apply the Cove Point Claims against the Cove Point Remaining Collateral fully satisfying the Cove Point Claims.

16. On or about May 27, 2004, MAEM provided DTI a letter of credit in the amount of \$1,990,458.00 for the benefit of DTI (the “DTI Letter of Credit” collectively, the DTI Letter of Credit with the Cove Point Letter of Credit, the “Letters of Credit”) and on June 7, 2004, MAEM amended the DTI Letter of Credit increasing the amount to \$2,067,144.00 as postpetition collateral in accordance with DTI’s tariff. Separately, on or about May 27, 2004, MAEM provided DTI a letter of credit in the amount of \$580,000.00 for the benefit of DTI (the “Second DTI Letter of Credit”) and on June 7, 2004, MAEM amended the second DTI Letter of Credit increasing the amount to \$744,000.00 as postpetition collateral to support the provision of Rate Schedule MCS (Market Center Services) which arise under natural gas transmission agreements with DTI pursuant to DTI’s tariff. In exchange, on or about June 9, 2004, DTI returned \$2,476,560.35 to MAEM representing the DTI Collateral less the DTI Claims. The unreturned portion of the DTI Collateral was retained by DTI to maintain security for the DTI Claims (the “DTI Remaining Collateral”). Upon the execution of this Stipulation and approval of this Stipulation by the Court, DTI shall be entitled to apply the DTI Claims against the DTI Remaining Collateral fully satisfying the DTI Claims.

17. DTI represents that the amount of the DTI Letter of Credit, as amended, satisfies the creditworthiness standards under its applicable Federal Regulatory Commission (“FERC”) tariff at MAEM’s current level of service. Cove Point represents that the amount of

the Cove Point Letter of Credit, as amended, satisfies the creditworthiness standards under its applicable FERC tariff at MAEM's current level of service.

18. As of this date, MAEM continues to perform and participate under the Transmission Agreements and continues to receive and render payment for postpetition Transmission Services.

19. DTI and Cove Point have requested that MAEM agree to the application of the DTI Claims against the DTI Remaining Collateral and the Cove Point Claims against the Cove Point Remaining Collateral as described herein.

20. Good, adequate and sufficient cause has been shown to justify the relief herein, and the entry of this Order.

### **AGREED ORDER**

IT IS HEREBY:

1. ORDERED that the Motion is approved.
2. ORDERED that there are no other amounts owed by MAEM to either DTI or Cove Point arising from prepetition transactions between the parties other than the Claims set forth herein.
3. ORDERED that DTI is entitled to apply the DTI Claims against the DTI Remaining Collateral and Cove Point is entitled to apply the Cove Point Claims against the Cove Point Remaining Collateral. The application of such collateral shall fully satisfy the Claims.
4. ORDERED that this Order shall constitute neither an assumption nor rejection of any of the Transmission Agreements pursuant to section 365 of the Bankruptcy Code, and the Debtors' rights with respect thereto are expressly reserved.

5. ORDERED that the Court shall retain sole and exclusive jurisdiction with respect to any matters relating to the implementation of this Order.

IT IS SO ORDERED.

Dated: June\_\_\_\_, 2004

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HONORABLE D. MICHAEL LYNN  
UNITED STATES BANKRUPTCY JUDGE

APPROVED AS TO FORM AND CONTENT:

/s/ Robin E. Phelan  
Robin Phelan

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