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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. |) | |
| |) | Hearing Date: December 30, 2003 |
| |) | Hearing Time: 10:30 a.m. |

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER
PURSUANT TO SECTION 502(a) OF THE BANKRUPTCY CODE
AND FED. R. BANKR. P. 9019 FOR APPROVAL OF A COMPROMISE
AND SETTLEMENT ALLOWING CLAIM OF DISTRIGAS OF MASSACHUSETTS
LLC AGAINST MIRANT AMERICAS ENERGY MARKETING, LP**

A HEARING WILL BE CONDUCTED ON THIS MATTER ON DECEMBER 30, 2003 AT 10:30 A.M. IN COURTROOM NO. 128, UNITED STATES BANKRUPTCY COURT, 501 WEST 10TH STREET, FORT WORTH, TEXAS. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

Debtors Mirant Corporation (“Mirant”) and Mirant Americas Energy Marketing, LP (“MAEM”), along with their affiliated debtors (collectively, the “Debtors”), file this motion (the “Motion”) for entry of an order pursuant to Section 502(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving a settlement with Distrigas of Massachusetts LP (“Distrigas”) allowing it a pre-petition unsecured claim in the amount of \$100,000, and in support of the Motion, respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL BACKGROUND

2. Chapter 11 Filing. Commencing on July 14, 2003, and concluding in the early morning hours of July 15, 2003, (the “Petition Date”), certain of the Debtors (collectively, the “Initial Debtors”) filed voluntary petitions in this 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”).¹ Additional affiliated Debtors have filed since that date. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

¹ Concurrently, Mirant caused two of its Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd and Mirant Canada Energy Marketing Investments, Inc. (collectively, the “Canadian Debtors”) to commence plenary insolvency proceedings (the “Canadian 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.

3. Joint Administration. On July 15, 2003, this Court granted the motion for an order requesting that the bankruptcy estates of the Initial Debtors be jointly administered. The estates of the additional Debtors are also being jointly administered.
4. Creditors' Committees. On July 25, 2003, the Office of the United States Trustee for the Northern District of Texas announced the formation of two official unsecured creditors' committees; one for Mirant Corporation and the other for Mirant Americas Generation, LLC (collectively, the "Creditors' Committees"). The appointment lists of members of the Creditors' Committees were filed in their respective chapter 11 cases on July 25, 2003.
5. Equity Committee. On September 18, 2003, the Office of the United States Trustee for the Northern District of Texas announced the formation of the official committee of equity security holders for Mirant Corporation (the "Equity Committee," together with the Creditors' Committees, the "Committees"). The appointment list of the members of the Equity Committee was filed in the chapter 11 case of Mirant Corporation on September 18, 2003.

FACTUAL BACKGROUND

A. The Debtors' Business Operations

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

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

7. Mirant employs in excess of 7,000 employees worldwide, of which approximately 1,100 employees are based at Mirant's corporate headquarters in Atlanta and approximately 5,900 employees are based at operating facilities. In 2002, Mirant recorded a \$542 million loss in earnings before interest, taxes and depreciation on a consolidated basis. Its 2002 operating revenues were approximately \$6.4 billion.

B. The Dstrigas Contracts

8. Prior to the Petition Date, commencing around November 1, 1997, MAEM and Dstrigas entered into a series of liquefied natural gas contracts (the "Contracts"). MAEM is always the buyer and Dstrigas the seller. Each Contract is technically called a "Service Agreement for Interruptible Vapor Service." The first Contract was dated November 1997, was in effect until November 20, 1998, and was subject to renewal each year thereafter unless terminated by a party on 60 days' notice. Additional Contracts were entered into on December 29, 2000, January 1, 2001, December 7, 2002, December 12, 2002, and March 24, 2003. There is also a post-petition Contract entered into in the ordinary course of MAEM's business dated October 27, 2003. Each Contract is virtually identical, except for the quantity of gas to be purchased by MAEM. A copy of the most recent Contract is attached as *Exhibit A* to the Declaration of Sean P. Murphy filed

simultaneously herewith in Support of the Motion, and incorporated herein by reference.

9. Over the course of the terms of the Contracts, Distrigas has delivered to MAEM significant quantities of liquefied natural gas on a daily basis. Distrigas invoiced MAEM for these deliveries. Due to some accounting problems and a billing error, certain amounts owed Distrigas remained unpaid as of the Petition Date, some of which amounts dated back to 1999. According to Distrigas, as of the Petition Date, Distrigas was owed the amount of \$115,000 by MAEM. MAEM's records did not agree with those of Distrigas, but complete reconciliation will be difficult for the Debtors to effectuate because of the daily nature of the transactions at issue and changes in personnel.
10. As a result of arms' length negotiations between MAEM and Distrigas, the parties have agreed to settle the amount of Distrigas's pre-petition unsecured claim under the Contracts for an allowed claim of \$100,000, to be paid in accordance with the treatment afforded all general unsecured creditors under any plan of reorganization confirmed in these cases.
11. Distrigas will file a proof of claim in the amount of \$100,000, and the Debtors hereby seek allowance of the claim as a pre-petition unsecured claim in that amount.
12. Except for the requirement of Court approval, the terms of this settlement are usual and customary. MAEM believes that the compromise and settlement embodied in this Motion is in the best interest of its estate and its creditors. Distrigas is a key supplier to the Debtors' Kendall plant in Boston and their New York plants. The settlement proposed herein will eliminate disruption of the ongoing relationship of the Debtors and Distrigas, and eliminate potential future litigation over a claim objection.

RELIEF REQUESTED

13. By this Motion, MAEM respectfully requests entry of an order pursuant to Section 502(a) and Bankruptcy Rule 9019 allowing Distrigas an unsecured pre-petition claim of \$100,000 in MAEM's bankruptcy case.

APPLICABLE AUTHORITY

14. Section 502(a) provides for the allowance of claims. Bankruptcy Rule 9019 provides, in part, that “[o]n motion by the [debtor-in-possession] and after notice and a hearing, the court may approve a compromise or settlement.” FED. R. BANKR. P. 9019(a). This rule empowers the Bankruptcy Court to approve compromises and settlements if they are “fair and equitable and in the best interest of the estate.” *Official Committee of Unsecured Creditors v. Cajun Electric Power Cooperation, Inc. (In re Cajun Electric Power Cooperative, Inc.)*, 119 F.3d 349, 355 (5th Cir. 1997); *see also, Feld v. Zale Corporation (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 decision to accept or to reject a compromise or settlement is within the sound discretion of the Court. *See* 9 COLLIER ON BANKRUPTCY ¶ 9019.02 (15th ed. Rev. 2001). “Compromises are favored in bankruptcy” because they minimize the costs of litigation and further the parties’ interest in expediting administration of a bankruptcy estate. *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996) (*citing* 9 COLLIER ON BANKRUPTCY ¶ 9019.03[1] (15th ed. Rev. 2001)). The settlement need not result in the best possible outcome for the debtor, but must not “fall beneath the lowest point in the range of reasonableness.” *Vaughn v. Drexel Burnham Lambert Group, Inc. (In re Drexel*

Burnham Lambert Group, Inc.), 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991).

15. In deciding whether to approve a settlement, a bankruptcy court does not conduct a mini-trial on the merits or engage in an independent investigation into the reasonableness of the proposed settlement, but instead “relies heavily on the trustee” and the court generally defers to the trustee’s judgment provided there is “a legitimate business justification” for the settlement. *Martin*, 91 F.3d at 395. Basic to the process of evaluating proposed settlements, then, is “the need to compare the terms of the compromise with the likely rewards of litigation.” *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 425 (1968). Courts will approve a debtor’s settlement if the settlement is in the best interests of the estate. *See In re Marvel Entertainment Group, Inc.*, 222 B.R. 243, 249 (D. Del. 1998).
16. Bankruptcy courts have applied the following factors in determining whether a settlement should be approved: (1) the probability of success in litigation, with due consideration for the uncertainty in fact and law; (2) the complexity and likely duration of litigation and any attendant expenses, inconvenience and delay; (3) the proportion of creditors who do not object to, or who affirmatively support the proposed settlement; and (4) the extent to which the settlement is truly the product of arms’ length bargaining and not the product of fraud or collusion. *See In re Cajun Electric Power Cooperative, Inc.*, 119 F.3d at 356.
17. The Debtors believe that the settlement of the disputed claim described herein is reasonable and in the best interests of the estate of MAEM and its creditors. A full analysis of the accounting issues involved in truly reconciling the amounts due Distrigas by MAEM would be time consuming for the Debtors’ personnel, most of whom were not involved in the original transactions. The dollar amount of the allowed claim is

comparatively small given the size of these cases and claims asserted against MAEM. Distrigas's claim will be treated no differently than that of any other unsecured creditor of MAEM, so no creditor is prejudiced. The settlement was negotiated in good faith and at arms length by both the Debtors' and Distrigas's business people.

WHEREFORE, the Debtors respectfully request that this Court enter an order, substantially in the form attached hereto, (i) approving the compromise and settlement of the claim of Distrigas; (ii) granting Distrigas an allowed pre-petition unsecured claim in the amount of \$100,000 against the estate of MAEM, and (iii) granting such other and further relief as the Court may deem just and proper.

Dated: December 3, 2003.

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, TX 75202
(214) 651-5000

By: Judith Elkin
Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian Peck
State Bar No. 24013306

-and-

Thomas E Lauria
State Bar No. 11998025
Craig H. Averch
State Bar No. 01451020
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131
(305) 371-2700

ATTORNEYS TO THE DEBTORS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing Motion upon all parties on the Limited Service List and the parties listed below via United States first class mail, postage prepaid, on the 3rd day of December, 2003 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Judith Elkin _____

Mr. Brad Witmer
Chief Financial Officer
One Liberty Square
10th Floor
Boston, MA 02109
<mailto:bwitmer@tlnga.com>

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
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| In re |) | Chapter 11 Case |
| MIRANT CORPORATION, <u>et al.</u> , |) | Case No. 03-46590 (DML) |
| |) | Jointly Administered |
| Debtors. |) | |
| |) | Hearing Date: December 30, 2003 |
| |) | Hearing Time: 10:30 a.m. |

DECLARATION OF SEAN P. MURPHY IN SUPPORT OF DEBTORS' MOTION FOR ENTRY OF AN ORDER PURSUANT TO SECTION 502(a) OF THE BANKRUPTCY CODE AND FED. R. BANKR. P. 9019 FOR APPROVAL OF A COMPROMISE AND SETTLEMENT ALLOWING CLAIM OF DISTRIGAS OF MASSACHUSETTS LLC AGAINST MIRANT AMERICAS ENERGY MARKETING, LP

SEAN P. MURPHY makes this Declaration pursuant to 28 U.S.C. § 1746, and states:

1. I am the Director, Fuel Group of Debtors Mirant Corporation ("Mirant") and Mirant Americas Energy Marketing, LP ("MAEM"). I have personal knowledge of the information set forth herein, some of which is based on my review of the business records of the Debtors, which records are kept in the ordinary course of business of the Debtors and are made at or near the time of the events represented in such documents by persons with personal knowledge of the matters contained therein.

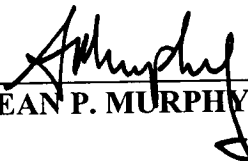
2. I submit this Declaration in support of the Debtors' motion (the "Motion") for entry of an order pursuant to Section 502(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code") and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), approving a settlement with Distrigas of Massachusetts LP ("Distrigas") allowing it a pre-petition unsecured claim in the amount of \$100,000.
3. Mirant and its direct and indirect subsidiaries comprise one of the world's largest generators and marketers of electricity. Through its direct and indirect subsidiaries, Mirant produces, sells and delivers reliable energy products and services to utilities, municipal systems, aggregators, electric-cooperative utilities, producers, generators, marketers and large industrial customers in North America, the Philippines and the Caribbean. Mirant's core business centers on the production and sale of electricity and electrical capacity (essentially the ability to produce electricity on demand). Mirant currently owns or controls more than 21,800 megawatts of electric generating capacity around the world, of which more than 18,000 megawatts is located in the United States. In 2002, Mirant produced 73 million megawatt-hours of electricity, sold 312 million megawatt-hours of electricity and sold or marketed an aggregate average of 21 billion cubic feet per day of natural gas.
4. Mirant employs in excess of 7,000 employees worldwide, of which approximately 1,100 employees are based at Mirant's corporate headquarters in Atlanta and approximately 5,900 employees are based at operating facilities. In 2002, Mirant recorded a \$542 million loss in earnings before interest, taxes and depreciation on a consolidated basis. Its 2002 operating revenues were approximately \$6.4 billion.

5. Prior to the Petition Date, commencing around November 1, 1997, MAEM and Distrigas entered into a series of liquefied natural gas contracts (the “Contracts”). MAEM is always the buyer and Distrigas the seller. Each Contract is technically called a “Service Agreement for Interruptible Vapor Service.” The first Contract was dated November 1997, was in effect until November 20, 1998, and was subject to renewal each year thereafter unless terminated by a party on 60 days' notice. Additional Contracts were entered into on December 29, 2000, January 1, 2001, December 7, 2002, December 12, 2002, and March 24, 2003. There is also a post-petition Contract entered into in the ordinary course of MAEM’s business dated October 27, 2003. Each Contract is virtually identical, except for the quantity of gas to be purchased by MAEM. A copy of the most recent Contract is attached hereto as *Exhibit A* and incorporated herein by reference.
6. Over the course of the terms of the Contracts, Distrigas has delivered to MAEM significant quantities of liquefied natural gas on a daily basis. Distrigas invoiced MAEM for these deliveries. Due to some accounting problems and a billing error, certain amounts owed Distrigas remained unpaid as July 14, 2003 bankruptcy petition date (the “Petition Date”), some of which amounts dated back to 1999. According to Distrigas, as of the Petition Date, Distrigas was owed the amount of \$115,000 by MAEM. MAEM’s records did not agree with those of Distrigas, but complete reconciliation will be difficult for the Debtors to effectuate because of the daily nature of the transactions at issue and changes in personnel.
7. As a result of arms’ length negotiations between MAEM and Distrigas, the parties have agreed to settle the amount of Distrigas’s pre-petition unsecured claim under the Contracts for an allowed claim of \$100,000, to be paid in accordance with the treatment

afforded all general unsecured creditors under any plan of reorganization confirmed in these cases.

8. Distrigas will file a proof of claim in the amount of \$100,000, and the Debtors hereby seek allowance of the claim as a pre-petition unsecured claim in that amount.
9. Except for the requirement of Court approval, the terms of this settlement are usual and customary. The compromise and settlement embodied in the Motion is in the best interest of its estate and its creditors. Distrigas is a key supplier to the Debtors' Kendall plant in Boston and their New York plants. The settlement proposed herein will eliminate disruption of the ongoing relationship of the Debtors and Distrigas, and eliminate potential future litigation over a claim objection.
10. I declare under penalty of perjury under the laws of the United States of America that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

EXECUTED THIS 2ND DAY OF DECEMBER, 2003.


SEAN P. MURPHY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing Declaration upon all parties on the Limited Service List and the parties listed below via United States first class mail, postage prepaid, on the 3rd day of December, 2003 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Judith Elkin _____

Mr. Brad Witmer
Chief Financial Officer
One Liberty Square
10th Floor
Boston, MA 02109
<mailto:bwitmer@tlnga.com>

EXHIBIT A

SERVICE AGREEMENT FOR INTERRUPTIBLE VAPOR SERVICE
BETWEEN DISTRIGAS OF MASSACHUSETTS LLC AS SELLER
AND MIRANT AMERICAS ENERGY MARKETING, LP AS BUYER

(REPRESENTATIVE SAMPLE)

Contract No. IVS209

**SERVICE AGREEMENT
FOR INTERRUPTIBLE VAPOR SERVICE
BETWEEN
DISTRIGAS OF MASSACHUSETTS LLC
AS SELLER
AND
MIRANT AMERICAS ENERGY MARKETING, LP
AS BUYER**

**SERVICE AGREEMENT FOR
INTERRUPTIBLE VAPOR SERVICE**

THIS SERVICE AGREEMENT FOR INTERRUPTIBLE VAPOR SERVICE (NO. IVS209) ("Agreement"), dated as of March 24, 2003, is made and entered into by and between Distrigas of Massachusetts LLC, a Delaware limited liability company, with a principal location at One Liberty Square, 10th Floor, Boston, Massachusetts 02109 (hereinafter called "Seller"), and Mirant Americas Energy Marketing Company, LP, a Delaware limited partnership, with a principal location at 1155 Perimeter Center West, Atlanta, Georgia 30338 (hereinafter called "Buyer");

WITNESSETH

WHEREAS, Seller owns and operates a Liquefied Natural Gas ("LNG") Terminal in Everett, Massachusetts and is engaged in the purchase and sale of LNG; and

WHEREAS, Buyer desires to purchase LNG services from Seller;

WHEREAS, Seller has made or will make transportation arrangements with third-party transporters ("Transporting Pipelines") for transportation of vaporized LNG.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, together with other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Seller and Buyer do mutually covenant and agree as follows:

**ARTICLE I
QUANTITY**

- 1.1 During each Contract Year during the term of this Agreement, Seller agrees to sell and Buyer agrees to purchase, on an interruptible basis, under the terms and delivery conditions hereinafter set forth, a total quantity of vaporized LNG not to exceed 12,840,000 MMBtu ("Annual Contract Quantity" or "ACQ") over a period not to exceed two hundred fourteen (214) days of service. Buyer's specific purchases of LNG on any day shall be identified in the applicable Sale Exhibit(s) attached hereto and incorporated herein as Exhibit A. Nothing herein shall obligate Seller to sell or Buyer to purchase any minimum quantity of vaporized LNG. As used herein, the term "Contract Year" shall mean any twelve (12) month period commencing on April 1st of one calendar year and running through March 31st of the following calendar year during the term of this Agreement.

**ARTICLE II
POINT(S) OF DELIVERY**

- 2.1 The Point(s) of Delivery of vaporized LNG hereunder shall be at the points described in the applicable Sale Exhibit(s) attached hereto and incorporated herein as Exhibit A.

**ARTICLE III
QUALITY**

- 3.1 The quality of the gas delivered hereunder shall be in accordance with the specifications contained in the General Terms and Conditions of the Federal Energy Regulatory Commission ("FERC") Gas Tariff(s) of the Transporting Pipeline(s) making deliveries at the Point(s) of Delivery.

**ARTICLE IV
DELIVERY CONDITIONS**

- 4.1 Buyer and Seller recognize that transportation of LNG sold as vapor from Seller's facilities to Buyer's facilities will require the services of one or more Transporting Pipeline(s). Accordingly, to receive service hereunder, Buyer will provide information to Seller at a time set by Seller in order to be able to meet the nomination deadlines of any of the Transporting Pipeline(s).

**ARTICLE V
PRICE**

- 5.1 For each MMBtu of LNG delivered to Buyer, Buyer will pay Seller the commodity price per MMBtu identified in the applicable Sale Exhibit(s) attached hereto and incorporated herein as Exhibit A ("Commodity Rate"). As to sales for resale in interstate commerce, the Commodity Rate for interruptible sales service will not exceed the Interruptible Commodity Cap prescribed in Section 3.1 of Seller's Rate Schedule ISS. The Commodity Cap under this Section applies to the price of LNG sold hereunder calculated at the tailgate of Seller's Everett, MA marine terminal and does not include any transportation or other charges incurred by Seller in making deliveries for or on behalf of Buyer under this Agreement.
- 5.2 The rates set forth in Section 5.1 shall include the applicable GRI Surcharge as established by the FERC and in effect from time to time.

**ARTICLE VI
METERING AND MEASUREMENT**

- 6.1 The metering and measurement of the LNG delivered hereunder shall be in accordance with the specifications contained in the General Terms and Conditions of the FERC Gas Tariff(s) of the Transporting Pipeline(s) making deliveries at the Point(s) of Delivery hereunder.

**ARTICLE VII
GOVERNMENTAL REGULATIONS**

- 7.1 This Agreement is subject to all valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction.

**ARTICLE VIII
GENERAL TERMS AND CONDITIONS**

- 8.1 The General Terms and Conditions of Seller's FERC Gas Tariff, First Revised Volume No. 1, as revised from time to time ("Seller's FERC Gas Tariff") are incorporated herein for all purposes.

**ARTICLE IX
TERM**

- 9.1 Subject to any requisite governmental authorizations, this Agreement shall take effect on April 1, 2003, and shall remain in effect through and including March 31, 2004, and thereafter shall continue on a month-to-month basis subject to termination by either party upon providing sixty (60) days' prior written notice. Such termination shall not include any transactions identified in Sale Exhibit(s) attached hereto and incorporated herein as Exhibit A that have not been fully performed.
- 9.2 Buyer and Seller mutually agree and covenant to one another that upon termination or expiration under this Article IX, this Agreement and the service herein provided shall be deemed abandoned for all purposes under the Natural Gas Act.

**ARTICLE X
FILING FEES**

- 10.1 Seller shall charge Buyer an amount to recoup any FERC filing or similar fees that Seller incurs in rendering service hereunder.

Buyer:
(other)

Mirant Americas Energy Marketing, LP
1155 Perimeter Center West
Atlanta, GA 30338
Attn: Contract Administration

ARTICLE XV
ASSIGNMENT

- 15.1 This Agreement shall be freely assignable to any affiliate of a party hereto, or to any financing entity, and may be assigned to any other third party upon prior written consent of the other party hereto, such consent not to be unreasonably withheld. For purposes of this Article XV, an affiliate shall mean any entity that controls, is controlled by, or is under common control with, a party.
- 15.2 This Agreement and all rights and obligations hereunder shall be binding upon and inure to the benefit of the parties and their respective assigns and successors in interest.

IN WITNESS WHEREOF, the parties have executed this Agreement in two original counterparts by their respective duly authorized officers as of the day and year first above written.

SELLER:

BUYER:

DISTRIGAS OF MASSACHUSETTS LLC

**MIRANT AMERICAS ENERGY
MARKETING, LP**

By: *Joseph P. Myff*
Title: *V.P. of Sales*

By: *[Signature]*
Title: *VP+ CCO*

By Mirant Americas Development, Inc., its General Partner

[Signature]
KRX

**EXHIBIT A
SALE EXHIBIT**

Via Facsimile: (678) 579-5940

Date

Contact Name
Mirant Americas Energy Marketing, LP
1155 Perimeter Center West
Atlanta, GA 30338

Dear _____:

This Exhibit A Sale Exhibit, which is attached to and incorporated in the Service Agreement for Interruptible Service Vapor Service (No. IVS209) dated as of March 24, 2003 ("Agreement"), made and entered into by and between Distrigas of Massachusetts LLC, as Seller, and Mirant Americas Energy Marketing, LP, as Buyer, hereby supplements the Agreement to provide the following information regarding specific purchases of vaporized LNG by Buyer:

GAS DAY: MDQ: PRICE (\$/MMBtu): POINT OF DELIVERY:

Please remit payment to Distrigas of Massachusetts LLC, P.O. Box 3309, Boston, MA 02241. Funds may be wired to JP Morgan Chase Bank, Houston, Texas, ABA No. 113000609, ACT No. 00113321146, for the account of Distrigas of Massachusetts LLC.

Exhibit A (cont.)
Page two

This Exhibit A shall take effect as of _____, at 9:00 a.m. CST, and shall remain in effect through and including _____, at 9:00 a.m. CST. This Exhibit A shall be deemed final and binding upon both Buyer and Seller if Buyer fails either to accept or to object to this Exhibit A within forty-eight (48) hours of the date first written above. Any form of confirmation submitted by Buyer for the same LNG purchase transaction that deviates from this Exhibit A or the underlying Agreement shall be deemed automatically rejected by Seller.

Please acknowledge your acceptance of this Exhibit A by signing below and returning one executed copy via telecopy (617) 482-2241 to: Distrigas of Massachusetts LLC, One Liberty Square, Boston, MA 02109, Attn: Contract Administration. Should you have any questions regarding this Exhibit A, please do not hesitate to contact Ms. Michelle Tiberi at (617) 526-8372.

Accepted and agreed to as of the date hereabove written.

SELLER:

DISTRIGAS OF MASSACHUSETTS LLC

By: _____

Title: _____

BUYER:

**MIRANT AMERICAS ENERGY
MARKETING, LP**

By: *MIRANT AMERICAS DEVELOPMENT, Inc.,
its General Partner* _____ *knl*

Title: _____

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

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

**ORDER GRANTING DEBTORS' MOTION PURSUANT TO SECTION 502(a)
OF THE BANKRUPTCY CODE AND FED. R. BANKR. P. 9019 FOR APPROVAL
OF A COMPROMISE AND SETTLEMENT ALLOWING CLAIM OF
DISTRIGAS OF MASSACHUSETTS LLC AGAINST MIRANT AMERICAS ENERGY
MARKETING, LP**

On this ___ day of December, 2003, the Court was presented with the Motion of Debtors Mirant Corporation ("Mirant") and Mirant Americas Energy Marketing, LP ("MAEM"), along with their affiliated debtors (collectively, the "Debtors"), for entry of an order pursuant to Section 502(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code") and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), approving a settlement with Distrigas of Massachusetts LP ("Distrigas") allowing it a pre-petition unsecured claim in the amount of \$100,000. Due notice has been given on the Motion. The Court finds that no objections have been filed to the Motion, that the settlement sought to be approved therein is in the best interests of the Debtors, their creditors and their estates, and that the Motion should be granted. It is therefore

ORDERED AS FOLLOWS:

1. that the compromise and settlement of the claim of Distrigas as set forth in the Motion be and hereby is approved; and

2. that Distrigas be and hereby is granted an allowed pre-petition unsecured claim in the amount of \$100,000 against the estate of MAEM to be treated in accordance with all similar claims in any plan of reorganization confirmed in these cases.

SIGNED THIS _____ DAY OF DECEMBER 2003.

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

Submitted by:
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