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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**

_____)	Chapter 11 Case
In re)	
)	Case No. 03-46590(DML)11
MIRANT CORPORATION, <u>et al.</u> ,)	Jointly Administered
)	
Debtors.)	Hearing Date and Time:
)	September 1, 2004 at 10:30 a.m.
_____)	

**DEBTORS' MOTION PURSUANT TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 9019 APPROVING SETTLEMENT AGREEMENT
AND RELEASE AMONG (I) MIRANT CANADA ENERGY MARKETING, LTD.,
MIRANT AMERICAS ENERGY MARKETING INVESTMENTS, INC., MIRANT
AMERICAS ENERGY MARKETING, LP, MIRANT CORPORATION AND (II)
TRANSCANADA PIPELINES LIMITED, TRANSCANADA ENERGY LTD.
AND TRANSCANADA GAS SERVICES INC.**

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

Mirant Corporation ("Mirant Corp.") and its above-captioned affiliated debtors (collectively, the "Debtors"), as debtors and debtors-in-possession, file this motion (the "Motion") pursuant to rule 9019 of the Federal Rules of Bankruptcy Procedure requesting an order allowing Debtors Mirant Corporation ("Mirant Corp."), Mirant Americas Energy Marketing Investments, Inc. ("MAEMII") and Mirant Americas Energy Marketing, LP ("MAEM" together with Mirant Corp. and MAEMII, "Mirant") to enter into and consummate a "Settlement Agreement and Release" (the "Agreement") with Mirant Canada Energy Marketing,

Ltd. (formerly Mirant Canada Energy Marketing, Ltd. (“MCEM” together with the Mirant, the “Mirant Entities”) and TransCanada PipeLines Limited (“TransCanada PipeLines”), TransCanada Energy Ltd. (“TransCanada Energy”) and TransCanada Gas Service Inc. (“TransCanada Gas” together with TransCanada PipeLines and TransCanada Energy, “TransCanada Entities”). A copy of the Agreement is attached hereto as Exhibit A.¹

I. PRELIMINARY STATEMENT

1. Since the beginning of this case, an important goal of the Debtors has been to resolve the issues, claims, and debts in the Canadian insolvency proceedings of MCEM and Mirant Canada Energy Marketing Investments, Inc. (together with MCEM, “Mirant Canada”) under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 as amended (the “Canadian Proceeding”).

2. The material claims in the Canadian Proceeding were resolved in a “Settlement Agreement” which was approved by this Court on April 21, 2004 (Docket No. 3664) pursuant to the “Debtors’ Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 Approving (I) Settlement Agreement Among (A) Mirant Corporation, Mirant Americas Energy Marketing Investments, Inc., Mirant Americas Energy Marketing, LP and Mirant Services, LLC (B) Mirant Canada Energy Marketing Investments, Inc. and Mirant Canada Energy Marketing, Ltd. and (C) Various Third Parties; and (II) Global Settlement of Mirant Canada Claims and Issues” filed by Debtors on April 12, 2004 (Docket No. 3594). The Global Settlement Agreement was approved by this Court in the Order dated April 21, 2004 (Docket No. 3664).

3. Although the Global Settlement Agreement resolved nearly all the major creditors’ issues relating to the Debtors’ Canadian assets, the claims of TransCanada relating to certain contracts were not resolved, but rather, reserved for determination at a later date. The

¹ Not all parties were served with a copy of the exhibits attached hereto. Any party interested in obtaining a copy of such exhibits may make a written request therefor of Debtors’ counsel.

purpose of this Motion is to resolve most of the issues relating to the aforementioned remaining contracts.

II. PROCEDURAL BACKGROUND

A. The U.S. Bankruptcy Proceedings.

4. The Cases. On July 14, 2003 and various dates thereafter (collectively, the “Petition Date”), Mirant Corp. and 82 of its direct and indirect subsidiaries (collectively, the “Debtors”) 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 title 11 of the United States Code (the “Bankruptcy Code”).

5. The Cases are Jointly Administered. This Court has entered orders approving the joint administration of the Debtors’ chapter 11 cases.

6. 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.

7. 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.

B. The Canadian Proceedings.

8. Concurrently with the filing of these bankruptcy cases, Mirant Corp. caused two of its Canadian subsidiaries, defined herein as Mirant Canada, to commence plenary insolvency proceedings in the Court of Queen’s Bench of Alberta Judicial District of Calgary pursuant to the CCAA.² PricewaterhouseCoopers Inc. (“PWC”) is the Monitor in the Canadian

² Mirant Canada Energy Trading Partnership is an Alberta partnership whose sole partners are Mirant Canada. Although the partnership was not a petitioner under the initial application, it was subject to the CCAA proceedings.

Proceedings. The Canadian Proceedings were recently resolved by virtue of the approval of the Plan of Arrangement of the Mirant Entities.

III. FACTUAL BACKGROUND

A. Mirant Canada's Business Operations and Sale of Assets.

9. Mirant Canada was in the energy trading business. For the most part, Mirant Canada traded natural gas and natural gas-related products. Mirant Canada did not own or operate power plants or power generating facilities or assets. In connection with its trading operations, Mirant Canada established trading and marketing contracts, and developed trading systems and infrastructure.

10. On October 10, 2001, MCEM, MAEMII and the TransCanada Entities entered into that certain Purchase and Sale Agreement (Margin Business) (the "PSA") under which MCEM acquired certain TransCanada Energy assets and MAEMII acquired certain assets of TransCanada Gas (the "TransCanada Gas Assets"). Among the assets purchased under the PSA, MCEM purchased from TransCanada Energy a financial AECO basis swap of 5,000 MMBtu's per day for NYMEX last day minus \$0.34 USD/MMBtu, ending in October, 2004 ("Basis Swap"). The counterparty of the Basis Swap is Engage Energy Canada, LP ("Engage"). Engage, however, would not consent to a novation of MCEM for TransCanada Energy under the Basis Swap. Thus, TransCanada Energy continues to be in contractual privity with Engage under the Basis Swap. To date, MCEM has performed under the Basis Swap.

11. MAEM assumed the obligations of MAEMII under the PSA pursuant to that certain Agreement Relating to Purchase and Sale Agreement (Margin) dated November 30, 2001 by and among MAEM, MAEMII and TransCanada Gas (the "ARPSA"). Under that certain Contribution, Assignment and Assumption Agreement (Margin) and General Conveyance (Margin) dated December 1, 2001 by and among MAEM and MAEMII, MAEMII transferred the TransCanada Gas Assets to MAEM.

12. MAEMII and MCEM are jointly and severally liable to the TransCanada Entities under the PSA and MAEM is liable to the TransCanada Entities for MAEMII's obligations under the PSA by virtue of the ARPSA. Moreover, Mirant Corp. guaranteed the obligations of the Mirant Entities under the PSA under a Guaranty dated October 10, 2001. Mirant Corp., on behalf of MCEM, posted a letter of credit in the amount of \$3,356,785 USD to TransCanada PipeLines (the "Letter of Credit") to support MCEM's overall transaction activity with TransCanada PipeLines. The Letter of Credit expires on September 30, 2004.

B. Mirant Canada Liquidated Its Assets and Commenced the Canadian Proceedings.

13. As noted, Mirant Canada commenced the Canadian Proceeding on July 14, 2003. On October 2, 2003, pursuant to Court order, Mirant Canada engaged in a sales process designed to sell its Canadian trading business. To that end, in March 2004, Mirant Canada assigned to Tenaska Marketing Canada ("Tenaska"), a division of TMV Corp, certain gas transportation-related contracts identified in the PSA, with the following exceptions: (a) the Firm Service Capacity Release to Androscoggin Energy LLC under Gas Transportation Contract for Firm Transportation Service starting November 10, 1999 and ending November 1, 2018 for 11,000 mmbtu/day at primary delivery point Draicut (the "Androscoggin Contract"); (b) the Gas Transportation Contract for First Transportation Service starting March 9, 1999 and ending October 31, 2018 between TransCanada Gas and Portland Gas Transmission for 4,000 mmbtu/day at primarily delivery point Draicut; and (c) the Gas Transportation Contract for Firm Transportation Service starting November 1, 2018 and ending March 9, 2019 between TransCanada Gas and Portland Gas Transmission for 15,000 mmbtu/day at primary delivery point Draicut (the contracts described in (b) and (c) above, the "Portland Contracts"). This Motion seeks authority to resolve issues relating to the Portland Contracts.

14. Further, substantially all of Mirant Canada's assets were liquidated in the Canadian Proceeding thereby leaving more than \$80 million in cash.

15. At the time of the Global Settlement Agreement, it was believed that the TransCanada Entities would assert a claim against Mirant Canada in the approximate amount of \$13.5 million for the anticipated rejection of the Portland Contracts. Consequently, an escrow account was established with \$10.8 million (an amount equal to 80% of \$13.5 million)³ (the “USD Funds”) for the benefit of the TransCanada Entities, pending resolution of the Portland Contracts. PWC, as monitor in the Canadian Proceedings, is holding such USD Funds in the escrow account which are earning interest.

16. By order entered April 22, 2004, the Court of Queen’s Bench Alberta approved Mirant Canada’s Plan of Arrangement.

C. The TransCanada Entities Proofs of Claim Against Debtors and the Debtors Rejected Obligations Related to the Portland and Androscoggin Contracts.

17. On December 15, 2003, the TransCanada Entities filed two separate proofs of claim against Mirant Corp. in the Chapter 11 Proceedings: (a) one in the amount of \$103,465,841 (designated as Claim Number 6512) (the “6512 Claim”) and (b) one in the amount of \$151,404 (designated as Claim Number 6511) (the “6511 Claim”).

18. On May 11, 2004, MAEM and MAEMII filed “Debtors’ Motion to Reject Executory Contracts Among Mirant Americas Energy Marketing Investments, Inc., TransCanada Pipelines Limited, TransCanada Energy Ltd. and TransCanada Gas Services Inc” (the “Rejection Motion”) (Docket No. 3910) in the Chapter 11 Proceedings to reject obligations arising out of, or related to, the Portland Contracts and the Androscoggin Contract. This Court granted the Rejection Motion by order entered on May 27, 2004 (Docket No. 4058). (As noted, the USD Funds were set aside for the benefit of TransCanada in connection with the anticipated rejection

³ The anticipated \$13.5 million claim was reduced by 20% because unsecured creditors in the CCAA Proceeding received 80% of their provable claims.

by the Debtors of their obligations related to, or arising in connection with, the Portland Contracts.)

19. After the Rejection Motion was granted, the Debtors entered into discussions with TransCanada to resolve issues related thereto, and with respect to the Engage Basis Swap.

D. The Proposed Settlement.

20. The Mirant Entities and TransCanada Entities have worked diligently to resolve the disputes relating to the Portland Contracts and the Engage Basis Swap. To that end, a settlement was reached among the Mirant Entities and the TransCanada Entities, which is memorialized by the Agreement attached hereto as Exhibit A. The Agreement contains the following specific important terms and conditions:

(i) *Payment to TransCanada Energy Entities.*

21. Under the Agreement, TransCanada Energy is to receive \$14,327,292 in the manner and from the sources described below:

(a) On or before the second business day following the entry of an order by the Bankruptcy Court granting this Motion (the "Approval Order"),⁴ the TransCanada Entities will take all steps necessary to draw the full amount of the Letter of Credit. The Letter of Credit proceeds shall be converted to Canadian dollars at the rate of \$1 USD = \$1.3929 CDN, which was the exchange rate as of July 15, 2003, the date of the commencement of the Canadian Proceedings. Thus, the Letter of Credit proceeds shall have a value of \$4,675,665.83 CDN (\$3,356,785 USD x 1.3929).⁵ See Agreement ¶1(a).

⁴ As a part of the Agreement, the parties thereto acknowledged and agreed that the Agreement was subject to approval by the Bankruptcy Court. To this end, the Mirant Entities undertook to submit a motion seeking an order from the Bankruptcy Court (the "Approval Order") approving the Agreement and the TransCanada Entities covenanted to use their best efforts to obtain the entry of such Approval Order.

⁵ TransCanada required utilization of the July 15, 2003 date as the relevant currency conversion date to ensure that neither party would be able to benefit by the timing of entry of the Approval Order. The July 15, 2003 date was used throughout the Canadian Proceedings as the appropriate currency conversion date by general agreement and protocol.

- (b) On the first business day following the entry of the Approval Order, MCEM shall instruct PWC to transfer \$9,251,626.17 CDN to the TransCanada Energy from the USD Funds.
- (c) PWC has agreed to make said transfer within one business day of its receipt of a written instruction from MCEM, and PWC agreed to immediately instruct its bank to convert the USD Funds to Canadian Dollars sufficient to pay \$9,251,626.17 CDN on the date that it receives the written instruction from MCEM.⁶ See Agreement ¶1(b). If the Letter of Credit proceeds in (a) above are less than the anticipated \$4,675,665.83 CDN, then MCEM is obligated to instruct PWC to transfer additional funds from the USD Funds (provided sufficient funds are available) until TransCanada Energy receives a total of \$13,927,292 CDN. (The date on which such amount is paid is hereinafter defined as the “Effective Date”). See Agreement ¶1(c).
- (d) TransCanada Energy shall be entitled to earn interest on \$12,787,292 CDN at a rate per annum equal to the rate earned by PWC on the USD Funds for any amount required to be paid as set forth above, but not paid, from June 15, 2004 until the Effective Date.
- (e) No portion of the payments described above are to be paid from any of the Debtors’ bankruptcy estates. See Agreement ¶ 1(g).
- (f) The Agreement provides that \$1,140,000 CDN (the “Basis Swap Funds”) of the \$13,927,292 CDN required to be paid under the Agreement represents any liability TransCanada Energy may owe to Engage under the Engage Basis Swap. MCEM intends to continue to perform the Basis Swap (or assign the Basis Swap to a creditworthy entity). The Basis Swap terminates on October 25, 2004. Consequently, the Agreement provides for a periodic return of the Basis Swap Funds on the following dates and in the following amounts (plus interest compounded monthly at the rate per annum equal to the rate quoted by the National Bank of Canada on the Effective Date): (a) \$395,000 CDN on August 25, 2004; (b) \$383,000 CDN on September 27, 2004; (c) \$362,000 CDN on October 25, 2004. See, Agreement ¶2. If MCEM assigns the Basis Swap to a creditworthy entity prior to termination of that agreement, TransCanada Energy is required to return the then-balance of the Basis Swap Funds to the Mirant Entities with accrued interest.
- (g) The TransCanada Entities will also be allowed a general unsecured claim of \$2,450,000 USD against Mirant Corp. in its bankruptcy case (the

⁶ The use of the conversion date for the foregoing purpose was agreed to because it was understood that PWC would not agree to a conversion date for purposes of calculating the amount to transfer from the USD Funds other than the actual date the transfer was to be made.

“Unsecured Claim”) and will not be required to take any further action to substantiate or prove the Unsecured Claim.⁷

- (h) As more specifically set forth in the Agreement, the Mirant Entities and the TransCanada Entities mutually released each other from Claims (as defined in the Agreement) related to damages incurred by the TransCanada Entities in connection with MAEM and MAEMII’s rejection of the Portland Contracts or any aspect of the parties’ prior business relationship. Specifically excluded from the mutual release is the following: (a) claims to rights and remedies under the Agreement, (b) the obligations of the parties under the Agreement, (c) the obligations of the parties under the Androscoggin Contract, and (d) with respect to Mirant Corp. and MAEM, the debt evidenced by the Unsecured Claim.

IV. RELIEF REQUESTED

22. The Debtors request an order of this Court pursuant to rule 9019(a) of the Federal Rules of Bankruptcy Procedure authorizing the Debtors Mirant Americas to consummate the transaction evidenced by the Agreement, in the form filed herewith.⁸

V. APPLICABLE AUTHORITY

23. 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).

24. Bankruptcy Rule 9019(a) empowers 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 decision to accept or reject a

⁷ The Agreement requires TransCanada Gas to withdraw the 6511 Claim *with prejudice* and make an appropriate filing with the Court. See Agreement ¶ 8 and Exhibit B attached thereto. Additionally the 6512 Claim is automatically amended to conform to the terms of the Agreement.

⁸ The Debtors’ form of order specifically provides that notice upon the Limited Service List and the TransCanada Entities satisfies Rule 2002(a)(3) of the Federal Rules of Bankruptcy Procedure.

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. *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.” *In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991). 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).

25. In order to determine whether a settlement is fair and equitable, this Court should consider and evaluate the following factors:

- (a) the probability of success in the litigation, with due consideration for the uncertainty in fact and law;
- (b) the complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and
- (c) all other factors bearing on the wisdom of the compromise.

See, Cajun Electric at 356 (citations omitted). Each of these factors will be discussed below:

A. Probability of Success in the Litigation

26. The claims of the TransCanada entities that are the subject of the settlement relate to and arise out of the Portland Contracts. One of the Portland Contracts goes through November 1, 2018 and the other commences November 1, 2018 and ends March 9, 2019. Given the lengthy terms of the contracts, calculation of the damages claim with respect thereto is complicated. The parties have disputed not only the method of calculation and the certainty of damages projected so far into the future, but also the appropriate discount rate to use. The settlement described herein is favorable to the Debtors’ estates. The Debtors have placed a premium on settlement in this instance because of the unique facts relating to the particulars of

the Portland Contracts and the difficulties in ascertaining the damages with respect thereto. This factor weighs in favor of settlement.

B. Complexity, Likely Duration of the Litigation, and Expense.

27. Similar to the previous discussion, calculation of the damage claim will be complex. Litigating the amount of the damage claim will undoubtedly require expert witness testimony which would be unnecessarily costly. This factor weighs in favor of settlement.

C. Other Factors Weigh in Favor of Approving the Settlement.

28. As noted, the Debtors have focused an appreciable amount of time and energy to resolve the issues relating to their Canadian assets. The Agreement resolves nearly all of the issues, with the exception being any claims relating to the Androscoggin Contract.

29. By avoiding the litigation costs associated with litigation related to the rejection of the Contracts, the Debtors are able to focus on their core reorganization issues.

D. The Debtors Have Provided Adequate Notice Of The Proposed Settlement.

30. In accordance with the foregoing, the Debtors submit that the foregoing notice is satisfactory and request a ruling from this Court that the notice provided in this instance satisfies Rule 2002(a)(3) of the Federal Rules of Bankruptcy Procedure. The Debtors have provided notice of this Motion, via U.S. mail, to (i) the parties on the Limited Service List (which includes all Committee counsel and counsel for the DIP Lender) and (ii) the TransCanada Entities and their counsel. The Debtors submit that no other or further notice is required and hereby request that the form of order provide that such notice is sufficient and satisfies the requirements of Rule 2002(a)(3).

VI. CONCLUSION

WHEREFORE, based upon the foregoing, the Debtors request that the Court grant the relief requested herein, and any other relief that is necessary and proper.

Dated: Fort Worth, Texas
August 6, 2004

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-and-

By /s/ Michelle C. Campbell

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ATTORNEYS FOR THE DEBTORS AND
DEBTORS-IN-POSSESSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he provided a true and correct copy of the forgoing to Bankruptcy Services, LLC on August 6, 2004 and directed them to effect service upon all persons on the Limited Service List via U.S. first class mail (without exhibits), and the addresses below via U.S. first class mail (with exhibits).

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/s/ Michelle C. Campbell

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Settlement Agreement") is entered into as of July 23, 2004 by and between Mirant Canada Energy Marketing, Ltd. (formerly Mirant Americas Energy Marketing Canada, Ltd.) ("MCEM"), Mirant Americas Energy Marketing Investments, Inc. ("MAEMII"), Mirant Americas Energy Marketing, LP ("MAEM"), Mirant Corporation (hereafter, MCEM, MAEMII, MAEM and Mirant Corporation may be referred to collectively as the "Mirant Entities"), TransCanada PipeLines Limited ("TransCanada PipeLines"), TransCanada Energy Ltd. ("TransCanada Energy"), TransCanada Gas Services Inc. ("TransCanada Gas") (hereafter, TransCanada PipeLines, TransCanada Energy, and TransCanada Gas may be referred to collectively as the "TransCanada Entities"), and acknowledged by PricewaterhouseCoopers, Inc., ("PWC"), as Monitor for MCEM in MCEM's insolvency proceeding that was pending in the Court of Queen's Bench of Alberta (Action No. 0301-11094) under the Companies' Creditors Arrangement Act, R.S.C., 1985, C.c-36, as amended (the "CCAA Proceeding"). Each of the Mirant Entities and each of the TransCanada Entities are a "Party" and collectively, the "Parties."

WITNESSETH:

WHEREAS, MCEM, MAEMII and the TransCanada Entities entered into that certain Purchase and Sale Agreement (Margin Business) dated October 10, 2001 (the "PSA"). In accordance with the PSA, MCEM acquired certain TransCanada Energy assets and MAEMII acquired certain TransCanada Gas assets ("TransCanada Gas Assets").

WHEREAS, specifically under the PSA, MCEM purchased from TransCanada Energy a financial AECO basis swap on 5,000 MMBtu's per day for NYMEX last day minus \$0.34 USD/MMBtu, ending in October, 2004 ("Basis Swap") entered into with Engage Energy Canada, LP ("Engage"). Engage, however, would not consent to a novation of MCEM for

TransCanada Energy under the Basis Swap. Thus, TransCanada Energy continues to be in contractual privity with Engage under the Basis Swap. To date, MCEM has performed under the Basis Swap.

WHEREAS, on November 30, 2001, TransCanada Gas, MAEMII and MAEM executed that certain Agreement Relating to Purchase and Sale Agreement (Margin) whereby the three signatories agreed, among other things, that MAEM would assume the obligations of MAEMII under the PSA. Further, on December 1, 2001, MAEM and MAEMII entered into that certain Contribution, Assignment and Assumption Agreement (Margin) and General Conveyance (Margin) whereby MAEMII transferred the TransCanada Gas Assets to MAEM.

WHEREAS, MAEMII and MCEM are jointly and severally liable to the TransCanada Entities under the PSA, and MAEM is liable to the TransCanada Entities for MAEMII's obligations under the PSA by virtue of the Agreement Relating to Purchase and Sale Agreement (Margin) dated November 30, 2001. Further, Mirant Corporation executed a guaranty dated October 10, 2001 and thereby guaranteed the obligations of the Mirant Entities under the PSA.

WHEREAS, Mirant Corporation on behalf of MCEM has posted a letter of credit in the amount of \$3,356,783 USD to TransCanada PipeLines to support MCEM's overall transaction activity with TransCanada PipeLines (the "Letter of Credit"). The Letter of Credit expires on September 30, 2004.

WHEREAS, on July 14, 2003 (the "Petition Date"), MAEM and MAEMII, together with Mirant Corporation and a number of its affiliated entities (the "Debtors"), filed voluntary petitions for relief in the United States Bankruptcy Court, Northern District of Texas, Fort Worth Division (the "Bankruptcy Court") (Case No. 03-46590) pursuant to Chapter 11 of Title 11 of the United States Code (the "Chapter 11 Proceeding").

WHEREAS, on July 15, 2003, MCEM commenced the CCAA Proceeding.

WHEREAS, on or about March 1, 2004, MCEM assigned to Tenaska Marketing Canada certain gas transportation-related contracts identified in the PSA, with the following exceptions: (a) the Firm Service Capacity Release to Androscoggin Energy LLC under Gas Transportation Contract for Firm Transportation Service starting November 10, 1999 and ending November 1, 2018 for 11,000 mmbtu/day at primary delivery point Draicut (“Androscoggin Contract”); (b) the Gas Transportation Contract for Firm Transportation Service starting March 9, 1999 and ending October 31, 2018 between TransCanada Gas and Portland Gas Transmission for 4,000 mmbtu/day at primary delivery point Draicut; and (c) the Gas Transportation Contract for Firm Transportation Service starting November 1, 2018 and ending March 9, 2019 between TransCanada Gas and Portland Gas Transmission for 15,000 mmbtu/day at primary delivery point Draicut (hereinafter (a), (b), and (c) may be referred to collectively as the “Contracts”). The Contracts are identified on Schedule 1.1(qqqqqq) of the PSA as contract numbers 9, 10, and 11.

WHEREAS, by order entered April 21, 2004, the Bankruptcy Court approved MAEM and MAEMII’s Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 Approving (i) Settlement Agreement Among (a) Mirant Corporation, MAEM, MAEMII, and Mirant Services, LLC (b) Mirant Canada Energy Marketing Investments, Inc. and MCEM and (c) Various Third Parties; and (ii) Global Settlement of Mirant Canada Claims and Issues.

WHEREAS, by order entered April 22, 2004, the Court of Queen’s Bench Alberta approved MCEM’s Plan of Arrangement. As part of MCEM’s Plan of Arrangement and in anticipation that the Contracts would be rejected by MAEM in its Chapter 11 Proceeding, PWC,

the Monitor in the CCAA Proceeding, is holding \$10.8 million USD in a trust account for the benefit of the TransCanada Entities (the "USD Funds"). The USD Funds are earning interest.

WHEREAS, on December 15, 2003, the TransCanada Entities filed two separate proofs of claim against Mirant Corporation in the Chapter 11 Proceeding: (a) one in the amount of \$103,465,841 (designated as Claim Number 6512) and (b) one in the amount of \$151,404 (designated as Claim number 6511).

WHEREAS, on March 26, 2004, MAEM and MAEMII filed a motion in the Chapter 11 Proceeding to reject the Contracts, and said motion was granted by the Bankruptcy Court by order entered May 26, 2004.

WHEREAS, due to the Parties' various positions, a good faith dispute has arisen between them as to their respective rights, remedies, duties, obligations and responsibilities associated with MAEM and MAEMII's rejection of the Contracts.

WHEREAS, the Parties recognize and appreciate the uncertainties and expense involved in the interpretation and enforcement of their respective positions as they relate to the TransCanada Entities' damages in connection with MAEM and MAEMII's rejection of the Contracts, or any aspect of the Parties' prior business relationship (collectively the "Dispute").

WHEREAS, except as specifically provided herein, the Parties, jointly, separately, and severally desire to resolve all issues, controversies, contentions and/or litigation that are now pending, or have been pending, or that may or could be brought by or against any of the Parties arising out of the Dispute.

WHEREAS, each Party acknowledges that it will derive substantial benefit from this Settlement Agreement and that it is receiving fair consideration and reasonably equivalent value for the exchanges and releases contemplated herein.

WHEREAS, except as specifically provided herein with respect to specific carve-outs, pursuant to this Settlement Agreement and subject to certain conditions set forth herein, the Parties will execute mutual releases related to the Dispute.

NOW, THEREFORE, in consideration of the promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and among the Parties to this Settlement Agreement as follows:

1. Payment to the TransCanada Entities. The Parties acknowledge and agree that TransCanada Energy shall be paid \$13,927,292 CDN in the manner and from the sources described in this paragraph.

(a)(i) Draw on the Letter of Credit. On or before the second business day following the entry of the Approval Order (as defined below), the TransCanada Entities shall take all steps necessary to draw the full amount of the Letter of Credit in accordance with this paragraph. The Mirant Entities authorize the TransCanada Entities to make any and all lawful certifications and representations necessary to draw on the Letter of Credit. For purposes of illustration, the following certifications may be made (as well as any other, or alternative, necessary and appropriate certifications) in connection with the Letter of Credit draw:

“the amount of \$3,356,783 USD is due and owing and remains unpaid (beyond the time allowed for such payment, including following any related notice or grace period or both) to the undersigned by Mirant Canada Energy Marketing, Ltd. in connection with (a) the Gas Transportation Contract for Firm Transportation Service starting March 9, 1999 and ending October 31, 2018 and (b) the Gas Transportation Contract for Firm Transportation Service starting November 1, 2018 and ending March 9, 2019, which are set forth in Schedule 1.1(qqqqq) (identified as contract numbers 10 and 11) of that certain Purchase and Sale Agreement (Margin Business) dated October 10, 2001, a copy of which is attached hereto.”

(ii) Conversion of Letter of Credit Proceeds. The Letter of Credit proceeds shall be converted to Canadian dollars at the rate of \$1 USD = \$1.3929 CDN, which was the exchange rate as of July 15, 2003, the date of the commencement of the CCAA Proceeding. Thus, the Letter of Credit proceeds shall have a value of \$4,675,665.83 CDN (\$3,356,785 USD x 1.3929).

(b) On the first business day following the entry of the Approval Order, MCEM shall instruct PWC to transfer \$9,251,626.17 CDN to TransCanada Energy out of the USD Funds. PWC agrees to make said transfer within one business day of its receipt of a written instruction from MCEM, and PWC agrees to immediately instruct its bank to convert the USD Funds to Canadian Dollars sufficient to pay the \$9,251,626.17 CDN on the date that it receives the written instruction from MCEM.

(c) Should the drawing under the Letter of Credit be less than the anticipated \$4,675,665.83 CDN, or should such draw not be honoured or be required to be returned, then MCEM shall instruct PWC to transfer additional funds from the USD Funds until TransCanada Energy receives a total of \$13,927,292 CDN provided the USD Funds are sufficient to make such payment.

(d) The date that TransCanada Energy receives a total of \$13,927,292 CDN as required by this Paragraph 1 will be referred to as the "Effective Date."

(e) TransCanada Energy shall be entitled to earn interest on \$12,787,292 CDN at a rate per annum equal to the rate earned by PWC on the USD Funds for any amount required to be paid by this Paragraph 1, but not paid, from June 15, 2004 until the Effective Date.

(f) To the extent the Mirant Entities fail to cause full payment to be made to the TransCanada Entities as required under Paragraph 1 within fifteen (15) days of entry of the Approval Order, the TransCanada Entities shall be entitled to any and all costs, expenses and/or attorney's fees expended by it in its enforcement of the terms of this Settlement Agreement. Once the Effective Date occurs, and except as expressly set forth in this Settlement Agreement, no Party shall have any further obligations to other Parties under or with respect to the PSA or

the Contracts with respect to conduct or claims, whether known or unknown, occurring, arising or relating to any period of time prior to and including the Effective Date.

(g) Nothing herein shall be construed as requiring any of the Debtors to pay anything (or otherwise provide consideration) from their bankruptcy estates or otherwise on account of the payments required by this Paragraph 1.

2. Payment Related to the Engage Transaction. The Parties acknowledge and agree that \$1,140,000 CDN (“Basis Swap Funds”) of the \$13,927,292 CDN to be paid by the Mirant Entities to TransCanada Energy pursuant to Paragraph 1 represents any liability that TransCanada Energy may have to Engage under the Basis Swap. With respect to the Basis Swap, TransCanada Energy shall not be entitled to more than \$1,140,000 after the execution of this Settlement Agreement. MCEM intends to either fully perform under the Basis Swap or assign the Basis Swap to a creditworthy entity. Provided MCEM continues to perform under the Basis Swap, TransCanada Energy shall repay the Basis Swap Funds in accordance with the following schedule:

<u>Payment Date</u>	<u>Refund Amount</u>
August 25, 2004	\$395,000 CDN
September 27, 2004	\$383,000 CDN
October 25, 2004	\$362,000 CDN.

For each payment, TransCanada Energy shall pay the corresponding refund amount to the Mirant Entities, together with interest thereon calculated and compounded monthly from the Effective Date to the payment date, at the rate per annum equal to the rate quoted by the National Bank of Canada on the Effective Date as the reference rate of interest it uses for determining interest rates on Canadian dollar commercial loans in Canada and designated as such bank’s prime rate

(“Interest Rate”). If MCEM assigns the Basis Swap to a creditworthy entity before the expiration of the Basis Swap, TransCanada Energy shall return the remaining balance of the Basis Swap Funds to the Mirant Entities (within two (2) business days of receipt of a written demand from the Mirant Entities), together with interest at the Interest Rate. To the extent a dispute arises as to the amount or the propriety of TransCanada Energy’s return of the Basis Swap Funds, the Parties agree to promptly consult with each other to resolve the dispute.

3. Retained Claim on Account of the Dispute. With respect to the Dispute, the TransCanada Entities shall have an allowed general unsecured claim of \$2,450,000 USD against each of Mirant Corporation and MAEM in the Chapter 11 Proceeding (“Unsecured Claim”). The TransCanada Entities shall not be required to take any further action to substantiate or prove the Unsecured Claim. For the avoidance of doubt, the Mirant Entities acknowledge that the TransCanada Entities shall retain a contingent claim against Mirant Corporation and MAEM related to the Androscoggin Contract. Any claim of the TransCanada Entities related to the Androscoggin Contract will be addressed by the Parties in the Chapter 11 Proceeding, and such claim may require substantiation or proof on the part of the TransCanada Entities.

4. Release of the TransCanada Entities.

(a) From and after the Effective Date, the Mirant Entities, for themselves and for their partners, members, representatives, attorneys, administrators, beneficiaries, successors and assigns, agents, guarantors, predecessors-in-interest, and any and all of their parents, subsidiaries and affiliated entities (hereinafter, individually and collectively, the “Mirant Releasing Parties”), do hereby remise, release and forever discharge the TransCanada Entities, and any and all of their partners, members, representatives, attorneys, administrators, beneficiaries,

successors and assigns, agents, guarantors, predecessors-in-interest, and any and all of their parents, subsidiaries and affiliated entities, and each of them, together with their respective directors, officers, employees, agents, attorneys, insurers, representatives, successors and assigns (hereinafter, individually and collectively, the "TransCanada Released Parties") from and against any and all past, present, or future claims, actions, causes of action, suits, debts, sums of money, judgments, accounts, agreements, promises, undertakings, demands, fines, damages, liabilities, penalties, sanctions, costs, expenses or attorneys' fees, of any nature whatsoever, whether in law or equity, or any other form, whether any of the foregoing is known or unknown, asserted or unasserted, foreseen or unforeseen, contingent, actual, liquidated or unliquidated, and irrespective of whether any of the foregoing pertain to actions or omissions (whether intentional, wanton, reckless, malicious, negligent, or inadvertent), dealings or contracts (collectively all of the above being referred to hereinafter as the "Claims"), that are in any way related to, connected to, or arising out of, from or under the Dispute; provided, however, that expressly excluded from this release are (i) any and all claims by the Mirant Entities to enforce any of its rights and remedies under this Settlement Agreement, (ii) the obligations of the TransCanada Entities under this Settlement Agreement, and (iii) the obligations, if any, of the TransCanada Entities under the Androscoggin Contract.

(b) The foregoing release, when pleaded, shall be and constitute a complete defense to any proceeding of any kind that violates its terms.

5. Release of the Mirant Entities.

(a) From and after the Effective Date, the TransCanada Entities, for themselves and their partners, members, representatives, attorneys, administrators, beneficiaries, successors and assigns, agents, guarantors, predecessors-in-interest, and any and all of their

parents, subsidiaries and affiliated entities (hereinafter, individually and collectively, the “TransCanada Releasing Parties”), do hereby remise, release and forever discharge the Mirant Entities, including specifically, Mirant Corporation, and any and all of their partners, members, representatives, attorneys, administrators, beneficiaries, successors and assigns, agents, guarantors, predecessors-in-interest, and any and all of their parents, subsidiaries and affiliated entities and each of them, together with their respective directors, officers, employees, agents, attorneys, insurers, representatives, successors and assigns (hereinafter, individually and collectively, the “Mirant Released Parties”) from and against any and all of the Claims that are in any way related to, connected to, or arising out of, from or under the Dispute; provided, however, that expressly excluded from this release are (i) any and all claims by the TransCanada Entities to enforce any of its rights and remedies under this Settlement Agreement, (ii) all obligations of the Mirant Entities under this Settlement Agreement, (iii) the obligations, if any, of Mirant Corporation or MAEM under the Androscoggin Contract, and (iv) the obligation of Mirant Corporation and MAEM regarding the Unsecured Claim.

(b) The foregoing release, when pleaded, shall be and constitute a complete defense to any proceeding of any kind that violates its terms.

6. General Release. It is intended by each of the Parties that the respective releases set forth in Paragraphs 4 and 5 be full and complete releases that are global in nature and cover every conceivable contingency, whether known or unknown, which could be encompassed by the respective releases, given their broadest and most sweeping interpretation and construction with respect to the Dispute. This full and complete Release shall be a full and complete bar to the urging of any released Claim(s) against the Mirant Released Parties and the TransCanada Released Parties respectively. To the extent any Mirant Releasing Party or TransCanada Releasing Party either (a) files a lawsuit based on a released Claim, and a court of competent jurisdiction finds that such an action has been released hereby; or (b) brings an action or other proceeding to enforce the release,

then the prevailing party, in addition to any other rights it may possess, shall be entitled to recover costs and expenses, including reasonable attorney's fees, from the party prosecuting such a Claim.

7. Approval Order.

(a) The Parties acknowledge and agree that this Settlement Agreement is subject to approval by the Bankruptcy Court. To obtain said approval, the Mirant Entities must file a motion with the Bankruptcy Court under Rule 9019 of the Federal Rules of Bankruptcy Procedure seeking approval of this Settlement Agreement (the "9019 Motion"). A copy of this Settlement Agreement shall be attached as an exhibit to the 9019 Motion. As such, the Parties acknowledge and agree that this Settlement Agreement shall not remain confidential.

(b) This Settlement Agreement shall be binding on the Mirant Entities and the TransCanada Entities as of the date hereof, subject to the entry of the Approval Order. For purposes of this Settlement Agreement, the "Approval Order" shall mean an order that has been entered by the Bankruptcy Court, after notice and hearing, approving this Settlement Agreement, in substantially the form of Exhibit A attached hereto.

(c) The Mirant Entities shall use their best efforts to obtain the entry of the Approval Order, and the TransCanada Entities shall use their best efforts to cooperate with and support the Mirant Entities' efforts to obtain entry of the Approval Order, on or before August 15, 2004. In the event the Approval Order is not entered by the Bankruptcy Court on or before August 15, 2004, or by such later date that the Parties agree to in writing, the TransCanada Entities can terminate this Settlement Agreement by providing written notice to the Mirant Entities, but only if the Approval Order is not entered prior to the date the notice of termination is received by the Mirant Entities. Should the Settlement Agreement be terminated pursuant to the preceding sentence, the Settlement Agreement shall be deemed null and void and neither the Mirant Entities nor the TransCanada Entities shall have any obligations arising out of this Settlement Agreement, except for the obligations and/or provisions set forth in Paragraphs 12

and 17 hereof, which provisions are intended to survive the expiration or termination of this Settlement Agreement.

8. Proofs of Claim. The Parties acknowledge and agree that proof of claim number 6511 filed by TransCanada Gas against Mirant Corporation in the Chapter 11 Proceeding is hereby withdrawn with prejudice. Nevertheless, TransCanada Gas shall formally withdraw claim number 6511 by submitting the form attached hereto as Exhibit B to Bankruptcy Services, L.L.C. Further, the Parties acknowledge and agree that proof of claim number 6512 filed by TransCanada PipeLines against Mirant Corporation in the Chapter 11 Proceeding is hereby amended so as to honor all the terms of this Settlement Agreement including acknowledgement of the Unsecured Claim and acknowledgement of any contingent claim of the TransCanada Entities related to the Androscoggin Contract . In particular, on and after the Effective Date, none of the Mirant Entities shall have any liability to the TransCanada Entities, except any liability of Mirant Corporation and MAEM that may arise from the Androscoggin Contract and the liability of Mirant Corporation and MAEM associated with the Unsecured Claim.

9. No Prior Representation. All prior discussions, understandings, representations, conditions, warranties, covenants, negotiations, agreements and all other communications between or among the Parties pertaining to the resolution of the Dispute are hereby superseded and merged herein. The Parties represent and acknowledge that in executing this Settlement Agreement, they do not rely and have not relied upon any of the foregoing communications not expressly set forth herein with regard to the subject matter, basis, terms, conditions, or effect of this Settlement Agreement or otherwise.

10. Entire Agreement. This Settlement Agreement, including the recitals, represents the entire agreement of the Parties with respect to the subject matter hereof. This

Settlement Agreement may not be modified, changed, amended, supplemented or rescinded except pursuant to a written instrument duly executed by all Parties. Each Party acknowledges and agrees that it shall not make any claim, at any time, that this Settlement Agreement has been orally altered or modified in any respect whatsoever.

11. Severability. The provisions of this Settlement Agreement are severable, and if any provision or any portion of any provision of this Settlement Agreement is at any time deemed, found or declared to be invalid or unenforceable, then such provision, or any portion of any such provision, if severed from the remainder of the Settlement Agreement without substantially affecting the consideration to be received by either the Mirant Entities or the TransCanada Entities, shall be deemed to be deleted. Such an invalid or unenforceable provision, or any portion of such a provision, shall not affect the validity of the remainder of this Settlement Agreement, and the remaining provisions shall continue in full force and effect.

12. No Admission of Liability. This Settlement Agreement is not an admission of any liability but is a compromise and settlement and this Settlement Agreement shall not be treated as an admission of liability. All communications (whether oral or in writing) between and/or among the Parties, their counsel and/or their respective representatives relating to, concerning or in connection with this Settlement Agreement, or the matters covered hereby and thereby shall be governed and protected in accordance with any applicable evidentiary rule or law, to the fullest extent permitted by law.

13. No Party Deemed Drafter. The Parties shall jointly be deemed to be the drafters of this Settlement Agreement and the rule that any ambiguity in a document shall be construed against the party drafting the document shall not apply to this Settlement Agreement.

14. Headings. The paragraph headings in this Settlement Agreement are included for convenience only, and do not in any way define, limit, alter, affect or control the matters contained in this Settlement Agreement, or the paragraphs that they encaption.

15. No Waiver. No waiver or indulgence of any breach or series of breaches of this Settlement Agreement shall be deemed a waiver of any other breach of this Settlement Agreement or any of its provisions or affect the enforceability of the remainder of this Settlement Agreement.

16. Notice. Notice by a Party to any other Party shall be delivered in writing and shall be deemed to have been duly given if delivered personally, delivered by courier, sent by facsimile transmission during normal business hours to the facsimile transmission numbers set forth below, or sent by mail in a registered or certified envelope, postage prepaid, return receipt requested, addressed as follows:

To the Mirant Entities:

Mirant Corporation
1155 Perimeter Center West
Atlanta, GA 30338-5416
Attn: Tim Delay
Facsimile No.: 678-579-5815

With a copy to:

Mirant Corporation
1155 Perimeter Center West
Atlanta, Georgia 30338-5416
Attn: Jay C. Wilson
Facsimile No.: 678-579-5981

To the TransCanada Entities:

TransCanada PipeLines Limited
450 – 1st Street S.W.

Calgary, Alberta T2P 5H1
Attn: Garry Lamb
Facsimile No.: 403-920-2359

or to such other address for notice of which the Parties have advised or may advise each other in writing in accordance with the provisions of this paragraph. Notice shall be deemed to have been delivered only upon actual delivery to the foregoing addresses (by hand delivery, courier or facsimile transmission with written confirmation of receipt), or five (5) business days after deposit in the United States mail or Canadian mail, as applicable, by registered or certified mail, postage prepaid, addressed to the foregoing addresses.

17. Choice of Law. This Settlement Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of New York without regard to its internal conflicts of law principles.

18. Counterparts. This Settlement Agreement may be executed in two or more counterparts and/or by facsimile, each of which shall be deemed an original and any set of which, when taken together, shall constitute one and the same instrument and be sufficient proof of the instrument so constituted. Notwithstanding the foregoing, if a signature page is transmitted by facsimile, the Party so transmitting shall deliver the original signature page to the other Party as soon as reasonably possible after facsimile transmission.

19. Benefit of Successors. This Settlement Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective successors, partners, members, assigns, divisions, parents, affiliates and subsidiaries.

20. Representations and Warranties. Each Party signing this Settlement Agreement represents and warrants that (i) it has read and understands the terms of the

Settlement Agreement and that such Party is duly authorized to execute and deliver this Settlement Agreement and to perform its obligations hereunder, and has taken all necessary actions to authorize such execution, delivery, and performance; (ii) such Party has not assigned, pledged, hypothecated or otherwise in any manner whatsoever sold, or transferred or abandoned, either by instrument or writing, operation of law or otherwise, any right, title, or interest in any Claim of any kind subject to the releases contained herein; (iii) the person signing this Settlement Agreement was duly authorized to do so on the date this Settlement Agreement was executed by such person; (iv) this Settlement Agreement constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms; and (v) its execution and delivery of this Settlement Agreement does not contravene, or constitute a default under, any provision of applicable law or regulation (including any order, decree, judgment, injunction, or other judicial or governmental restriction applicable to such Party or any portion of its assets) or the formation agreements or governing instruments of such Party or of any other material agreement, judgment, injunction, order, decree or other instrument binding upon such Party; provided, however that the Parties acknowledge that the enforceability of this Settlement Agreement is subject to the entry of the Approval Order.

21. Costs of Settlement. All costs of settlement shall be borne by each respective Party, including but not limited to, any attorneys' fees or other professional fees and court costs, if any.

22. Non-Frustration. The Parties shall execute all such documents and take all such actions as may be necessary to effect the consummation of this Settlement Agreement. Each Party agrees to take no action to hinder, delay, frustrate or avoid the consummation of this Settlement Agreement.

23. Disclaimer of Warranties. The Parties expressly represent that they have had full access to all information made the subject of this Settlement Agreement and that each Party's decision to consummate this Settlement Agreement is expressly predicated upon its own investigation of such material and is not predicated upon any representations, warranties or covenants of the other Party except as expressly set forth in this Settlement Agreement.

THE PARTIES FURTHER STATE THAT THEY HAVE CAREFULLY READ THIS SETTLEMENT AGREEMENT, WHICH INCLUDES A RELEASE BY THEM OF CLAIMS, THAT THEY HAVE HAD SUFFICIENT TIME TO REVIEW THE SETTLEMENT AGREEMENT AND CONSULT WITH SUCH ADVISORS AS THEY DEEM APPROPRIATE, THAT THEY FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THE SETTLEMENT AGREEMENT IF APPROVED BY THE BANKRUPTCY COURT, THAT THE ONLY PROMISES MADE ARE THOSE STATED HEREIN AND THAT THEY ARE SIGNING THIS AGREEMENT KNOWINGLY AND VOLUNTARILY AND WITH THE FULL INTENT OF RELEASING THE OTHER PARTY AND ITS AFFILIATED PERSONS AND ENTITIES IN THE MANNER DESCRIBED HEREIN.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the date written above.

**MIRANT AMERICAS ENERGY
MARKETING, LP**

By: **MIRANT AMERICAS DEVELOPMENT, INC.**

Its General Partner

By:  _____

Its: EUP + CO _____



**MIRANT AMERICAS ENERGY MARKETING
INVESTMENTS, INC.**

By: [Signature]

(W)

Its: EVP + COO

MIRANT CANADA ENERGY MARKETING, LTD.

By: [Signature]

(W)

Its: EVP + COO

MIRANT CORPORATION

By: [Signature]

(W)

Its: EVP + COO

TRANSCANADA PIPELINES LIMITED

By: Garry Lamb

Its: VP - Risk Management

By: [Signature]

Its: _____

TRANSCANADA GAS SERVICES INC.

By: Garry Lamb

Its: VP

By: [Signature]

Its: _____

TRANSCANADA ENERGY LTD.

By: Garry Lamb

Its: VP

By: [Signature]

Its: _____

Acknowledged by:

PRICEWATERHOUSECOOPERS, INC.
as Monitor of Mirant Canada Energy Marketing, Ltd.

By: _____

Its: _____

TRANSCANADA GAS SERVICES INC.

By: _____

Its: _____

By: _____

Its: _____

TRANSCANADA ENERGY LTD.

By: _____

Its: _____

By: _____

Its: _____

Acknowledged by:

PRICEWATERHOUSECOOPERS, INC.
as Monitor of Mirant Canada Energy Marketing, Ltd.

By: _____

Its: _____

SENIOR VICE PRESIDENT

EXHIBIT A
(form of order)

EXHIBIT B

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

WITHDRAWAL OF CLAIM FILED BY TRANSCANADA GAS SERVICES INC.

TO: Bankruptcy Services, L.L.C.
Claims Agent: Mirant Corporation
Grand Central Station
P.O. Box 4613
New York, NY 10163-4613

COMES NOW TRANSCANADA GAS SERVICES INC. and hereby withdraws the following claim filed in the above-captioned Chapter 11 proceeding:

1. Claim Number 6511 filed against Mirant Corporation on December 15, 2003 in the amount of \$151,505.

Dated, this the _____ day of _____ 2004.

TRANSCANADA GAS SERVICES INC.

By: _____

Title: _____

By: _____

Title: _____

Address: _____

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

<p>In re</p> <p>MIRANT CORPORATION, <u>et al.</u>,</p> <p style="text-align: center;">Debtors.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Chapter 11 Case</p> <p>Case No. 03-46590(DML)11</p> <p>Jointly Administered</p> <p>Hearing Date and Time: September 1, 2004 at 10:30 a.m.</p>
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**ORDER GRANTING DEBTORS' MOTION PURSUANT TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 9019 APPROVING SETTLEMENT AGREEMENT
AND RELEASE AMONG (I) MIRANT CANADA ENERGY MARKETING, LTD.,
MIRANT AMERICAS ENERGY MARKETING INVESTMENTS, INC., MIRANT
AMERICAS ENERGY MARKETING, LP, MIRANT CORPORATION
AND (II) TRANSCANADA PIPELINES LIMITED, TRANSCANADA ENERGY LTD.
AND TRANSCANADA GAS SERVICES INC.**

Upon the *Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019 Approving Settlement Agreement and Release Among (i) Mirant Canada Energy Marketing, Ltd., Mirant Americas Energy Marketing Investments, Inc., Mirant Americas Energy Marketing, LP, Mirant Corporation and (ii) Transcanada Pipelines Limited, Transcanada Energy Ltd. and Transcanada Gas Services Inc.* (the "Motion") filed by Mirant Corporation ("Mirant Corp.") and its above-captioned affiliated debtors (collectively, the "Debtors"), as debtors and debtors-in-possession; and this Court, having considered the Motion and all pleadings filed in connection therewith; and it appearing that this Court has jurisdiction over this matter; and it appearing that the settlement set forth in the Settlement Agreement is "fair and equitable and in the best interest of the estate" and satisfies the requirements for approval of settlements set forth *In re Cajun Electric Power Cooperative, Inc.*, 119 F.3d 349, 355 (5th Cir. 1997); and it appearing that, under the circumstances, due notice of the Motion and the relief set forth herein has been provided, and

that no other or further notice need be provided; upon all of the proceedings had before the Court, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY:

ORDERED, that the Motion is GRANTED; it is further

ORDERED, that the Agreement is hereby approved and the Debtors may take all reasonable and necessary steps to consummate their obligations under the Agreement; it is further

ORDERED, that the TransCanada Entities (collectively, not individually) shall have an allowed, general unsecured claim of \$2,450,000 USD (the “Unsecured Claim”) against each of Mirant Corporation and MAEM in the Chapter 11 Proceeding; provided that the foregoing shall not be construed to permit a double recovery to the TransCanada Entities on account of the Unsecured Claim. The TransCanada Entities shall not be required to take any further action to substantiate or prove the Unsecured Claim. The TransCanada Entities shall retain a contingent claim against Mirant Corporation and MAEM related to the Androscoggin Contract. Any claim of the TransCanada Entities related to the Androscoggin Contract will be addressed by the Parties in the Chapter 11 Proceeding, and such claim may require substantiation or proof on the part of the TransCanada Entities; it is further

ORDERED, proper, timely, and adequate notice of the Motion and the Agreement has been provided in accordance with all applicable law, such notice was good and sufficient and appropriate under the particular circumstances, and no other or further notice of the Motion or the Agreement is required. This Court specifically finds that service of the Motion upon the

Limited Service List and the TransCanada Entities (and their counsel) is reasonable, satisfactory, and sufficient for purposes of Federal Rule of Bankruptcy Procedure 2002(a)(3).

Dated: September ____, 2004

D. Michael Lynn,
United States Bankruptcy Judge