

**ENTERED**

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THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

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ATTORNEYS FOR THE DEBTORS AND DEBTORS IN POSSESSION

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

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

**ORDER GRANTING DEBTORS' MOTION PURSUANT TO RULE 9019 OF THE  
FEDERAL RULES OF BANKRUPTCY PROCEDURE FOR ORDER APPROVING  
SETTLEMENT BETWEEN MIRANT TEXAS, LP AND BOSQUE COUNTY**

Upon the Motion<sup>1</sup> (the "Motion") dated May 10, 2004 filed by Mirant Corporation ("Mirant") and its affiliated debtors, as debtors and debtors in possession (collectively, the "Debtors"), pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure for entry of an order approving the settlement (the "Settlement Agreement") between Mirant Texas, LP ("Mirant Texas") and Bosque County, Texas ("Bosque County"), and it appearing that the Court has jurisdiction over this matter; and it appearing that due notice of the Motion has been

<sup>1</sup> Unless otherwise defined herein, capitalized terms have the same meaning ascribed to them in the Motion.

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 therefore,

It is hereby

**ORDERED** that the Motion is hereby GRANTED; and it is further

**ORDERED** that within three (3) days of the date this Order is non-appealable, Bosque County shall provide an invoice to Mirant Texas, and Mirant Texas shall pay to the Tax Assessor-Collector of the County of Bosque, Texas \$2,263,496.28, plus interest as provided by §33.01, Texas Tax Code (the "Payment"), of which the sum of \$405,483.77, plus interest is due to Bosque County, and the sum of \$1,858,012.51 plus interest is due to the Clifton Independent School District.

**ORDERED** upon timely receipt of the Payment, to be no later than ten (10) days after this Order is non-appealable, Mirant Texas will receive a Property Tax Abatement Exemption, as authorized by the Texas Property Redevelopment and Tax Abatement Act, Texas Tax Code, Chapter 312, from Bosque County that provides for a Tax Abatement Exemption subject to the following terms and conditions:

- a) **Subject Property.** The subject property ("Subject Property") is an electrical generating facility on approximately 270.813 acres owned by Mirant Texas that is located on FM 56, Bosque County, Texas. The Subject Property shall constitute the buildings, structures, fixed machinery and equipment, office space and related fixed improvements located on Mirant Texas' land. The Subject Property is currently identified on Bosque County's Property Tax Rolls as Account No. P29200.
- b) **Tax Abatement Exemption**
  - i. **Terms and Definitions.** For the purposes of calculating the value of the Subject Property and the amount of the Tax Abatement Exemption provided by this Order the following terms shall be defined to mean:
    - 1) The Appraised Value shall be the fair market value of the Subject Property as determined by the Bosque County Appraisal District. In the

tax year 2003, the Appraised Value of the Subject Property was \$131,200,980.

2) The Assessed Value shall be the Appraised Value less the amount of the exemption that the Subject Property receives under the Texas Property Tax Code §11.31, Pollution Control Property (the "Pollution Control Tax Exemption").<sup>2</sup> In the tax year 2003, the amount of the Pollution Control Exemption was \$13,004,310, and the Assessed Value of the Subject Property was \$118,196,670.

3) The Taxable Value shall be the Assessed Value of the Subject Property less the amount of the exemption provided by this Order and authorized by Texas Property Tax Code, Chapter 312 (the "Tax Abatement Exemption").

- ii. Amount. Mirant Texas shall receive a Tax Abatement Exemption of sixty percent (60%) of the Assessed Value of the Subject Property, as determined by the Bosque County Appraisal District, except as provided below.
- iii. Term. Mirant Texas' Tax Abatement Exemption shall be for a term of seven (7) years (the "Term"), commencing with the tax year 2004 and continuing through the tax year 2010. Unless terminated sooner as provided below, the Tax Abatement Exemption will terminate in the tax year 2011, and upon termination, the Subject Property will be appraised and taxed as provided by the Texas Property Tax Code.
- iv. Notwithstanding the amount of the Tax Abatement Exemption provided above, if in any year during the Term, the amount of the Tax Abatement Exemption reduces the Taxable Value of the Subject Property such that the resulting tax assessment to Bosque County is less than \$139,000, the amount of Mirant Texas' Tax Abatement Exemption shall be adjusted so that the resulting Taxable Value of the Subject Property when multiplied by Bosque County's tax rate for that year results in a tax assessment of \$139,000; provided, however, that in no instance shall Mirant Texas' tax assessment for any tax year during the Term exceed the amount of taxes that would be due by calculating the tax assessment based on the Assessed Value of the Subject Property.

c) Events of Default; Termination and Recapture

- i. During the Term, Mirant Texas shall timely pay all property taxes levied against the Subject Property by any taxing authority. It shall be

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<sup>2</sup> The Tax Abatement Exemption and Settlement Agreement are not intended to and do not preclude Mirant Texas from asserting its rights to any further local, city, county, or state tax exemptions for which it may be or may become eligible.

considered an Event of Default if Mirant Texas allows the property taxes assessed against the Subject Property by Bosque County or any other taxing authority to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest.

- ii. It will be an Event of Default if Mirant Texas' fixed machinery or equipment is removed from the Subject Property and is not replaced with fixed machinery or equipment of like value within a reasonable time. It is understood and agreed that it shall not be an Event of Default if Mirant Texas removes:
    - 1. Miscellaneous pieces of equipment, that are not material to the operation of the Subject Property;
    - 2. One or both of its simple cycle gas turbines each rated at 154 MW output and associated equipment.
  - iii. Notice of Default, Termination. Should Bosque County determine that Mirant Texas is in default under section i. or ii. above, it shall send written notification to Mirant Texas identifying the Event of Default and that if such default is not cured within sixty (60) days from the date of such Notice of Default the Tax Abatement Exemption shall terminate. In the event Mirant Texas fails to cure said default within sixty (60) days of receipt of Notice of Default from Bosque County, the Tax Abatement Exemption will terminate effective in the year of the Event of Default. The taxes otherwise abated for that calendar year shall be paid to Bosque County within sixty (60) days from the date of termination.
  - iv. Recapture. In the event that this Tax Abatement Exemption is terminated for a default under section i. (but not section ii.) above, in addition to the termination provided above and payment of abated taxes in the year of the termination, all taxes for all years that have been abated by virtue of this Order will be recaptured. Bosque County shall notify Mirant Texas of the amount of all taxes previously abated by virtue of this Order. Said abated taxes will be delinquent if not paid by the first day of the next month following the expiration of sixty (60) days from the date of receipt of such tax notice. If the abated taxes are not paid at that time penalty and interest shall begin to accrue on the abated taxes in accordance with Sections 33.01, 33.07 and 33.08 of the Texas Tax Code.
- d) Inspection. Mirant Texas shall allow employees and/or representatives of Bosque County to have access to the Subject Property during the Term to inspect the Subject Property and to determine compliance with the terms and conditions of this Order. All inspections will be made only upon five days prior notice and will only be conducted in such manner as to not unreasonably interfere with the

operation of the facility. All inspections shall be conducted in accordance with all Subject Property safety procedures.

- e) Termination on Sale or Conveyance. The Tax Abatement Exemption provided herein is only for the benefit of Mirant Texas or any of its affiliates; the Tax Abatement Exemption may be assigned to a new owner of the Subject Property only upon the expressed written consent of the Bosque County Commissioner's Court. All inspections shall be conducted in accordance with all Subject Property safety procedures.
- f) Mirant Texas reserves its right to follow the legal procedures to protest or contest assessed taxes.

Dated: June 2, 2004



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D. Michael Lynn,  
United States Bankruptcy Judge