

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

**ENTERED**  
AWANA MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

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

**ORDER PURSUANT TO 11 U.S.C. § 366(b): (I) PROHIBITING ENTERGY ARKANSAS, INC. FROM ALTERING, REFUSING OR DISCONTINUING SERVICE TO WRIGHTSVILLE POWER FACILITY, L.L.C. AND (II) PROVIDING ENTERGY ARKANSAS, INC. WITH ADEQUATE ASSURANCE**

Came before the Court for consideration the amended motion dated October 16, 2003 (the "Motion") of Mirant Corporation and its affiliated debtors (collectively, the "Mirant Debtors"), as debtors and debtors-in-possession, and (i) Mirant Wrightsville Management, Inc., as a debtor and debtor-in-possession, (ii) Mirant Wrightsville Investments, Inc., as a debtor and debtor-in-possession, (iii) Wrightsville Power Facility, L.L.C., as a debtor and debtor-in-possession, and (iv) Wrightsville Development Funding, L.L.C., as a debtor and debtor-in-possession (collectively, the "Wrightsville Debtors" and, together with the Mirant Debtors, the "Debtors"), for an order pursuant to section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code"), directing that orders in the Mirant Debtors' chapter 11 cases be made applicable to the Wrightsville Debtors. Entergy Arkansas, Inc. ("EAI") filed a response objecting to the Motion. This Order resolves the objection of EAI to the Motion with respect to EAI's retail electric service ("Retail Electric Service") to Wrightsville Power Facility, L.L.C. ("Wrightsville") and Wrightsville's proposed adequate assurance to EAI under section 366 of the Bankruptcy Code with respect to the Retail Electric Service. It is therefore, hereby

**ORDERED** that Wrightsville shall timely pay EAI for Retail Electric Service provided by EAI and consumed by Wrightsville after October 3, 2003, all pursuant to the applicable agreements between EAI and Wrightsville (including the Agreement for Electric Service dated December 11, 2001), and the applicable tariffs, schedules, utility service regulations and orders of governing commissions (collectively, the “Tariffs”). Payment for Retail Electric Service shall be due and payable to EAI as provided in the applicable EAI invoices and statements for the Retail Electric Service. The amounts owed to EAI for Retail Electric Service after October 3, 2003 are administrative claims under section 503(b)(1)(A) of the Bankruptcy Code. In the event of any dispute about the amount of an EAI invoice, Wrightsville shall pay the entire invoice, but may thereafter request a determination of the disputed amount by this Court or any other appropriate forum; and it is further

**ORDERED** that Wrightsville is authorized and directed to pay to EAI a deposit of \$100,000.00 (the “Deposit”) within three (3) business days of entry of this Order to secure payment for Retail Electric Service after October 3, 2003; and it is further

**ORDERED** that a default (a “Default”) under this Order shall occur upon the following:

(i) Wrightsville fails to pay when due any invoice for Retail Electric Service provided after October 3, 2003;

(ii) EAI has given written notice, by courier or facsimile, to Wrightsville of such failure to pay for Retail Electric Service (“Default Notice”); and

(iii) Wrightsville fails to make the stated payment for such Retail Electric Service on or before seven (7) days after receipt by Wrightsville, by courier or facsimile, of the Default Notice.

Upon a Default, EAI may, at its sole discretion, and without waiving the Default or EAI’s other rights and remedies, apply the Deposit to unpaid invoices for Retail Electric Service

provided after October 3, 2003. Application of the Deposit does not cure any Default. Upon a Default, and entry of a Termination Order (as defined below), EAI may, at its sole discretion, exercise all of its other rights and remedies under any applicable agreements and Tariffs and applicable law, including, without limitation, termination or suspension of Retail Electric Service to Wrightsville. EAI may continue to use its ordinary notices and invoices.

In the event Wrightsville fails to timely pay for any Retail Electric Service, EAI may file with this Court a motion to: (i) compel payment of EAI's administrative claim for the Retail Electric Service, and (ii) permit suspension or termination by EAI of further Retail Electric Service (the "Default Motion"). Under the circumstances, upon request of EAI, the Default Motion shall be scheduled for an emergency hearing, upon not less than three business days' notice of such hearing, without need for further order of this Court, and such notice shall be due and proper notice of the hearing. An order granting the Default Motion and the foregoing relief shall be signed and entered by this Court (the "Termination Order") if the Default has occurred.

Notice and any Default Notice shall be sent, by courier or facsimile, as follows:

(a) Wrightsville:

Mirant Corporation  
1155 Perimeter Center West  
Atlanta, Georgia 30338-5416  
Attention: Jimmy Packer, Director of Operations  
Facsimile: (678) 579-5001

(b) Wrightsville's counsel:

White & Case LLP  
Wachovia Financial Center  
200 South Biscayne Blvd., Suite 4900  
Miami, Florida 33131  
Attention: Gerard Uzzi  
Facsimile: (305) 358-5744

A Default Motion shall be sent as follows:

(a) Wrightsville's counsel:

White & Case LLP  
Wachovia Financial Center  
200 South Biscayne Blvd., Suite 4900  
Miami, Florida 33131  
Attention: Gerard Uzzi

(b) Mirant Corporation Unsecured Creditors' Committee:

Andrews & Kurth, L.L.P.  
805 Third Avenue  
New York, New York 10022  
Attention: Paul N. Silverstein

Andrews & Kurth, L.L.P.  
1717 Main Street  
Suite 3700  
Dallas, Texas 75201  
Attn: Jason Brookner

Simpson, Thatcher & Bartlett  
425 Lexington Avenue  
New York, New York 10017-3954  
Attention: Mark Thompson

(c) MAGI Committee:

Cox & Smith Incorporated  
112 East Pecan Street  
Suite 1800  
San Antonio, Texas 78205-1505  
Attention: Deborah D. Williamson;  
Tom Rice

Cadwalader, Wickersham & Taft  
100 Maiden Lane  
New York, New York 10038  
Attention: Bruce R. Zirinsky;  
Greg Petrick

(d) Equity Committee:

Brown Rudnick Berlack Israels LLP  
120 West 45th Street

New York, New York 10036  
Attention: Edward S. Weisfelner

Hohmann, Taube & Summers, LLP  
100 Congress Avenue  
Suite 1600  
Austin, Texas 78701-4042  
Attention: Eric Taube

(e) U.S. Trustee:

U.S. Trustee  
Earle Cabell Federal Building  
1100 Commerce Street  
Room 9C60  
Dallas, Texas 75242-1011  
Attention: George F. McElreath, Esq.

; and it is further

**ORDERED** that, so long as no Default has occurred (or no Termination Order has occurred), EAI shall not alter, refuse or discontinue Retail Electric Service to Wrightsville solely on the basis of the commencement of these cases or that a debt owed by Wrightsville to EAI for service rendered before October 3, 2003, was not paid when due. EAI and Wrightsville each retain the right to make further requests regarding adequate assurance under section 366 of the Bankruptcy Code based upon a material change in circumstance regarding the Retail Electric Service or other electric or utility service provided by EAI to Wrightsville; and it is further

**ORDERED** that nothing in this Order, the Motion, or the Utility Motion shall be deemed to constitute an assumption of any executory contract under section 365 of the Bankruptcy Code. This Order does not affect: (i) any parties' rights under any agreements or relationships between EAI and Wrightsville or under any applicable Tariffs, or (ii) any other rights, claims, offsets, recoupments, or defenses of EAI or Wrightsville under the Bankruptcy Code; and it is further

**ORDERED** that this Order controls the provision of adequate assurance of payment under section 366 of the Bankruptcy Code with respect to Retail Electric Service provided by EAI to Wrightsville after October 3, 2003, and supersedes in that respect, any other Order, including the Order Determining that the Debtors are Administratively Solvent; and it is further

**ORDERED** that EAI may apply its pre-petition deposit of \$90,000, which was received on or around September 2002, to reduce the approximately \$405,000 in unpaid pre-petition amounts owed to EAI for Retail Electric Service provided by EAI to Wrightsville before October 3, 2003; and it is further

**ORDERED** that the Court shall retain jurisdiction over any disputes arising from or related to the implementation of this Order.

Signed: October 29, 2003



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HONORABLE D. MICHAEL LYNN  
UNITED STATES BANKRUPTCY JUDGE

**PREPARED BY:**

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