

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Emergency Petition and Complaint of)
District of Columbia Public Service Comm'n) Docket No. EL05-145-000
)

**POTOMAC ELECTRIC POWER COMPANY’S MOTION TO INTERVENE AND
COMMENT IN SUPPORT OF EMERGENCY PETITION AND COMPLAINT**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. §§ 385.211 and 385.214 (2004), Potomac Electric Power Company (“Pepco”) hereby moves to intervene in the above-captioned proceeding and supports the August 24, 2005 Emergency Petition and Complaint filed by the District of Columbia Public Service Commission (“DC PSC”). As discussed below, Mirant Corporation and its public utility subsidiaries (collectively, “Mirant”) should be required to continue operating the Potomac River generating station in Alexandria, Virginia (the “Potomac River Plant”) because the generation of electricity from the Potomac River Plant is a crucial part of existing contingency plans designed to ensure, among other things, the provision of reliable electric service to Pepco’s retail customers in the District of Columbia, which include many federal institutions.

Mirant voluntarily shut down the Potomac River Plant on August 24, 2005, in connection with a Virginia environmental agency’s investigation of air quality issues. The shutdown of the Potomac River Plant, however, was not required or authorized by any order of that agency or any other governmental authority.

Mirant concedes that the Potomac River Plant is a critical component of existing plans for ensuring the reliability of the electric grid in the District of Columbia.¹ Serious and urgent short term reliability concerns are raised by the shutdown. The Potomac River Plant must remain operational until a program is implemented that ensures the reliability of the load that the plant supports. It is not clear to Pepco that a solution cannot be found in which the Potomac River Plant remains sufficiently operational to meet Mirant’s reliability obligations, while also meeting environmental concerns.

Accordingly, Pepco respectfully urges the Commission to grant DC PSC’s Emergency Petition and Complaint and order Mirant to continue operating the Potomac River Plant until further ordered.

I. COMMUNICATION

All correspondence and communications with respect to this proceeding should be addressed to the following persons:

¹ In addition to Mirant’s recent press statements acknowledging the impact on reliability, Mirant and Pepco entered into a Local Area Support Agreement (“LASA”) to maintain reliability of electric service in the local area of the Potomac River Plant. The LASA is an Ancillary Agreement to, and part of, the Asset Purchase and Sale Agreement for Generating Plants and Related Assets, dated June 7, 2000 (collectively, with its attachments, schedules, exhibits, ancillary agreements and other documents executed in connection therewith or as a result thereof, all of which as amended, modified and/or assigned, the “APSA”). Pepco reserves all of its rights and remedies with respect to any breaches now existing or to occur in the future under the APSA, including the LASA.

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II. MOTION TO INTERVENE

Pepco, a subsidiary of Pepco Holdings, Inc. (“PHI”), is a public utility that delivers power to more than 725,000 customers in the District of Columbia and Maryland. DC PSC’s Emergency Petition and Complaint was filed in response to Mirant’s voluntary shutdown of the Potomac River Plant, which raises significant reliability concerns. As the primary supplier of electricity to customers in the District of Columbia, Pepco has a direct and substantial interest in this proceeding, which will be directly affected by the Commission’s resolution of this matter and which cannot be adequately represented by any other party. Thus, Pepco’s participation in this proceeding is in the public interest. Accordingly, Pepco requests that its motion to intervene be granted and that it be granted full party status.

III. BACKGROUND

DC PSC filed its Emergency Petition and Complaint in response to Mirant’s voluntary shutdown of the Potomac River Plant. Mirant took this drastic action in connection with an investigation by the Department of Environmental Quality for the Commonwealth of Virginia (“DEQ”) into certain air quality concerns. Importantly, no order directing or authorizing a shutdown of the plant has been issued by DEQ or any other governmental authority.

DC PSC seeks an order pursuant to Sections 202(c), 207 and 309 of the Federal Power Act, 16 U.S.C. § 824a *et seq.* (“FPA”) requiring Mirant to continue operating the Potomac River Plant. As set forth in more detail below, and as Mirant acknowledges, the Potomac River Plant is a critical component for the reliability of the electric grid for the District of Columbia.

Pepco is the primary supplier of electricity to retail customers in the District of Columbia, including federal institutions.

A. The Potomac River Plant is a critical component for the reliability of the electric grid in the District of Columbia.

The generation of electricity from the Potomac River Plant is an important aspect of existing policies and procedures designed to ensure reliable electric service to the Potomac River area of Pepco’s load within the District of Columbia.² The Potomac River area of Pepco’s load includes the central business district of the District of Columbia, including many federal institutions, and continues west through Georgetown and other parts of Northwest Washington.

The shutdown of all generation by the Potomac River Plant reduces the overall import capability of the BC/Pepco area by approximately 100 MW.³ In addition, there are two 230 kilovolt (kV) cables supplying electricity for Pepco’s load in the Potomac River area. Without the generation from the Potomac River Plant, normal maintenance activities on either of the cables or related equipment typically cannot be scheduled under the rules governing the electric grid. The inability to conduct maintenance makes the cables and related equipment more susceptible to failure, which increases the likelihood of a reliability breakdown. In order for one

² Given the importance of the Potomac River Plant to the reliable supply of electricity to the District of Columbia, Pepco and Mirant entered into the LASA, which was accepted by the Commission as a rate schedule. See In re Potomac Elec. Power Co., 93 FERC ¶ 61,240 (2000).

³ The “BC” in BC/Pepco refers to the Baltimore Company, now known as Baltimore Gas & Electric Company. In general, the import limitations to the BC/Pepco area are not in close proximity to the Potomac River Plant, which results in the lower than 1:1 ratio of import capability to generation output.

of the 230 kV cables to be taken out of service, enough generation to match the load served by that cable must be available and synchronized to the system.

For more information regarding specific operational and reliability implications of the shutdown, Pepco refers the Commission to the confidential joint response of PJM Interconnection, LLC (“PJM”) and PHI to the Commission’s request for information, which was filed confidentially in accordance with the Commission’s rules regarding Critical Energy Infrastructure Information.

B. Mirant voluntarily shut down the Potomac River Plant.

On Friday, August 19, 2005, DEQ issued a letter to Mirant Potomac River, LLC in response to a “downwash” modeling study of the Potomac River Plant’s air emissions.⁴

Although DEQ’s letter requested that Mirant provide a summary of actions being taken to protect health and environmental concerns by 2:00 p.m. on Wednesday, August 24, 2005, DEQ did not order Mirant to shut down the Potomac River Plant.⁵

On Monday, August 22, 2005, Mirant issued a press release in response to the DEQ letter, which stated that it had reduced output of the Potomac River Plant to its lowest levels, and that, if no acceptable short-term solutions were found, it would shut down the Potomac River Plant by midnight on Wednesday, August 24, 2005.⁶ In the press release, Mirant stated that the Potomac River Plant “has been identified as a critical component for the reliability of the electric grid in the Washington, D.C. area.”⁷

⁴ A copy of the DEQ letter is attached hereto as Exhibit A.

⁵ Mirant and DEQ had previously entered into an Order by Consent regarding the air quality issues. See Exhibit B.

⁶ See DC PSC’s Emergency Petition and Complaint, at pp. 13-16.

⁷ Id. at p. 13.

On Wednesday, August 24, 2005, Mirant announced that it would “temporarily halt power production” at the Potomac River Plant.⁸ In this press release, Mirant acknowledged that the plant shutdown has reliability implications.⁹

On information and belief, at approximately midnight on August 24, 2005, Mirant shut down the Potomac River Plant. Given Mirant’s recognition of the serious reliability issues associated with shutting down the plant, it would be reasonable to expect Mirant to have proposed a short-term solution to this matter that involved a scenario less drastic than completely shutting down the plant.

On August 24, 2005, DC PSC filed its Emergency Petition and Complaint seeking orders from the Commission and the Secretary of the Department of Energy directing Mirant to continue operating the Potomac River Plant.

IV. COMMENT IN SUPPORT OF EMERGENCY PETITION AND COMPLAINT

Pepco joins in the concerns raised by DC PSC in its Emergency Petition and Complaint and urges the Commission to order Mirant to continue operating the Potomac River Plant until further ordered.

A. The Commission has authority under the FPA to grant the requested relief.

The FPA empowers the Commission to issue such orders as are necessary to, among other things, ensure the reliable supply of electric energy. Specifically, Section 202(c) of the FPA states, in relevant part:

[W]henever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy

⁸ A copy of Mirant’s August 24, 2005 News Release is attached as Exhibit C. Mirant states in its press release that it “will keep the plant in standby mode for 24 hours after shutdown, which allows for a relatively rapid return to service if ordered to do so by an appropriate authority.” Id. at p. 2.

⁹ Id. p. 2.

or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest.

16 U.S.C. § 824a(c).¹⁰ The reliability concerns (described below and in the confidential response of PJM and PHI to the Commission’s data request) caused by the shutdown of the Potomac River Plant constitute grounds for the exercise of such emergency authority.

In addition, Section 207 of the FPA states, in relevant part:

Whenever the Commission, upon complaint of a State commission, after notice to each State commission and public utility affected and after opportunity for hearing, shall find that any interstate service of any public utility is inadequate or insufficient, the Commission shall determine the proper, adequate, or sufficient service to be furnished, and shall fix the same by its order, rule or regulation.

16 U.S.C. § 824f. The requirements of this provision have been met: DC PSC, a “State commission” within the meaning of 207, has filed an Emergency Petition and Complaint.¹¹

When operating, the Potomac River Plant provides “interstate service” by supplying electricity across the entire PJM region, including the District of Columbia. Mirant, which owns the plant, is a jurisdictional public utility under the FPA.

¹⁰ The Secretary of Energy has previously issued orders under the authority of Section 202(c). For example, the Secretary issued orders in connection with the 2000-2001 California energy crisis and the August 2003 Northeast blackout. See Order pursuant to Section 202(c) of the Federal Power Act (December 14, 2000); Order pursuant to Section 202(c) of the Federal Power Act (January 11, 2001); and Order No. 202-03-1 (August 14, 2003). Pepco is submitting a copy of this Motion to Intervene and Comment in Support of Emergency Petition and Complaint to the Department of Energy.

¹¹ Pepco notes that the Pennsylvania Public Utility Commission, another “State commission,” has noticed its intervention in support of DC PSC’s Emergency Petition and Complaint.

Finally, Section 309 of the FPA states, in relevant part:

The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act.

16 U.S.C. §825h. As discussed below, Commission action is required to avert the serious impacts of a plant shutdown on the reliability of the electric grid in the Potomac River area.

B. DC PSC has shown that the shutdown of the Potomac River Plant adversely affects reliability.

There is no question that reliability has been adversely affected by the plant shutdown. The shutdown of the Potomac River Plant eliminates a vital component of the system that helps maintain the reliability of electric service. In addition, the shutdown adversely affects the ability to perform maintenance on Pepco's transmission facilities. If for some reason both of Pepco's lines go out of service, all connected load would be dropped.

While further analysis and information exchange is necessary and ongoing, it is clear that the loss of the entire Potomac River Plant for an extended period, coupled with the risks of a potential loss of critical transmission lines, creates a significant risk of losing large portions of Pepco's load in the District of Columbia. This heightened risk of a potential load loss in the Potomac River area of the District of Columbia, which serves various federal institutions, is unacceptable. For reasons of infrastructure security, Pepco refers the Commission to the more detailed information contained in the confidential joint response of PJM and PHI to the Commission's information request.

No one disputes that the plant is important to electric reliability.¹² PJM indicated more than a year ago that some generation capacity at the Potomac River Plant is necessary to

¹² As noted earlier, Pepco and Mirant are parties to the LASA, which is designed to maintain reliability of service in the local area of the Potomac River Plant.

maintain reliability.¹³ Mirant has acknowledged that the Potomac River Plant is a critical component of the reliability of the electric grid in the District of Columbia.¹⁴

In light of the demonstrated adverse effects of the plant shutdown on the reliability of the transmission of electric energy, DC PSC's Emergency Petition and Complaint should be granted. There is no reason to wait until a catastrophe happens before directing Mirant to make the Potomac River Plant available.

The letter from DEQ did not direct Mirant to shut down the plant. Rather, the letter states that failure to comply with DEQ's request for an action plan would "result in DEQ taking appropriate and immediate enforcement action[.]" Exhibit A, at p. 2.

Again, given Mirant's recognition of the serious reliability issues associated with shutting down the plant, it would be reasonable to expect Mirant to have proposed a short-term solution to this matter that involved a scenario less drastic than completely shutting down the plant. A solution should be found in which the Potomac River Plant remains sufficiently operational to meet Mirant's reliability obligations, while also meeting environmental concerns.

V. CONCLUSION

WHEREFORE, for the reasons discussed above, Pepco respectfully urges the Commission to:

1. Grant Pepco's Motion to Intervene with full party status;

¹³ In an April 12, 2004 letter to DEQ, PJM also explained some of the technical aspects of the impact of a shutdown. Specifically, PJM stated that it:

expects that a minimum of three Potomac River units must be running at all times during moderate load periods (moderate load period is approximately between October and June) and all five units must be running during the summer peak load time period (approximately June through September) in order to ensure reliability.

See DC PSC's Emergency Petition and Complaint, at p. 17.

¹⁴ See DC PSC's Emergency Petition and Complaint, at p. 13.

2. Grant DC PSC's Emergency Petition and Complaint; and
3. Direct Mirant to continue to operate the Potomac River Plant until further orders are issued.

Respectfully submitted,

/s/ Matthew W. Cheney

J. Phillip Jordan

Roger Frankel

Jonathan Guy

Matthew W. Cheney

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Tel. (202) 424-7500

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Counsel for Potomac Electric
Power Company

Dated: August 29, 2005

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Potomac Electric Power Company's Motion to Intervene and Comment in Support of Emergency Petition and Complaint is being served upon each person designated on the official service list in this proceeding in accordance with Rule 2010 of the Commission Rules of Practice and Procedure.

Dated at Washington D.C. this 29th day of August, 2005.

/s/ Matthew W. Cheney

EXHIBIT A



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

www.deq.virginia.gov

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

(804) 698-4000
1-800-592-5482

August 19, 2005

Lisa D. Johnson, President
Mirant Potomac River, LLC
8711 Westphalia Road
Upper Marlboro, Maryland 20774

Dear Ms. Johnson:

DEQ is in receipt of the results of Mirant's "downwash" modeling provided by Mirant to DEQ pursuant to the consent special order between the State Air Pollution Control Board and Mirant Potomac River, LLC.

A cursory review of the modeling reveals that emissions from the Potomac River Generating Station result in, cause or substantially contribute to *serious* violations of the primary national ambient air quality standards or "NAAQS" for sulfur dioxide (SO₂), nitrogen dioxide (NO₂) and PM₁₀. NAAQS are established by the U. S. Environmental Protection Agency at concentrations necessary to protect human health with an adequate margin of safety.

The Virginia Air Pollution Control Regulations at 9 VAC 5-20-180(I) provides as follows: *Regardless of any other provision of this section, the owner of any facility subject to the Regulations for the Control and Abatement of Air Pollution shall, upon request of the Board, reduce the level of operation at the facility if the Board determines that this is necessary to prevent a violation of any primary ambient air quality standard. Under worst case conditions, the Board may order that the owner shut down the facility, if there is no other method of operation to avoid a violation of the primary ambient air quality standard. The Board reserves the right to prescribe the method of determining if a facility will cause such a violation. In such cases, the facility shall not be returned to operation until it and the associated air pollution control equipment are able to operate without violation of any primary ambient air quality standard. (Emphasis added).*

Because of the serious violations of the human health-based NAAQS, and as provided in 9 VAC 5-20-180(I), I am writing on behalf of the Board to request that Mirant *immediately* undertake such action as is necessary to ensure protection of human health and the environment, in the area surrounding the Potomac River Generating Station, including the potential reduction of levels of operation, or potential shut down of the facility. A summary of the actions being taken and their progress toward eliminating NAAQS violations is to be provided to DEQ no later than 2 pm, Wednesday, August 24, 2005.

Failure to comply with this request will result in DEQ taking appropriate and immediate enforcement action pursuant to § 10.1-1309 of the Air Pollution Control Law.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert G. Burnley". The signature is fluid and cursive, with a large, looping "y" at the end.

Robert G. Burnley

C: W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Carl Josephson – Office of the Attorney General

Michael G. Dowd – DEQ
Ken McBee – DEQ
Jeffery Steers - DEQ

RGB:dlm

EXHIBIT B



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 fax (703) 583-3801
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Robert G. Burnley
Director

Jeffery A. Steers
Regional Director

COMMONWEALTH OF VIRGINIA STATE AIR POLLUTION CONTROL BOARD

ORDER BY CONSENT

ISSUED TO

MIRANT POTOMAC RIVER, LLC Registration No. 70228

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1307D and 10.1-1307.1, between the Board and Mirant Potomac River, LLC for the purpose of ensuring compliance with ambient air quality standards incorporated at 9 VAC Chapter 30 and Va. Code § 10.1-1307.3(3) requiring certain emissions modeling and analysis related to the Potomac River Power Station located in Alexandria, Virginia.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Order.
6. "Mirant," means Mirant Potomac River, LLC, a limited liability company qualified to do business in Virginia. Mirant Potomac River, LLC is owned Mirant Corporation and operated by Mirant Mid-Atlantic, LLC.
7. "Facility" means the Potomac River Generating Station owned and operated by Mirant located at 1400 North Royal Street, Alexandria, Virginia, 22314. The facility is a five unit, 488 MW coal-fired electric generating plant.
8. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
9. "The Permit" means the Stationary Source Permit to Operate issued by DEQ to the facility on September 18, 2000, pursuant to 9 VAC 5-80-800, *et seq.*
10. "Marina Towers" means a multiple unit residential condominium building located at 501 Slaters Lane, Alexandria, Virginia, in close proximity to the facility.
11. "Downwash" means the effect that occurs when aerodynamic turbulence induced by nearby structures causes pollutants from an elevated source (such a smokestack) to be mixed rapidly toward the ground resulting in higher ground-level concentrations of pollutants.
12. "NAAQS" means the primary national ambient air quality standards established by the U.S. Environmental Protection Agency for certain pollutants, including sulfur dioxide (SO₂), nitrogen dioxide (NO₂), carbon monoxide (CO), ozone, and particulate matter (PM), pursuant to § 109 of the federal Clean Air Act, 42 USC § 7409, set forth at 40 CFR Part 50 and incorporated at 9 VAC Chapter 30. NAAQS are established at concentrations necessary to protect public health with an adequate margin of safety.
13. "NOx" means oxides of nitrogen, which is a pollutant resulting from the combustion of fossil fuels and a precursor to the formation of ozone.
14. "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to 10 micrometers and is a pollutant resulting from, among other things, the combustion of fossil fuels.

SECTION C: Findings of Fact and Conclusions of Law

1. In order to ensure compliance with the Northern Virginia area's National Ambient Air Quality Standard (NAAQS) for ozone, the Department is in the process of revising the facility's Stationary Source Permit to Operate for the purpose of clarifying the facility's ozone season

(May 1 through September 30) emission requirements for NOx. A public hearing on the proposed permit revision was held in Alexandria, Virginia, on the evening of April 12, 2004.

2. Among the comments offered at the public hearing by Alexandria residents was that DEQ should require Mirant to perform comprehensive modeling to assess the impact of emissions from the facility on the area in the immediate vicinity of the facility.
3. At or about the time of the public hearing, certain residents of Alexandria, Virginia, provided the Department with a document entitled "Screening-Level Modeling Analysis of the Potomac River Power Plant Located in Alexandria, Virginia" prepared by Sullivan Environmental Consulting, Inc., dated March 29, 2004 (the Sullivan Screening). The Sullivan Screening was commissioned by, among others, certain residents of Marina Towers for the purpose of assessing whether emissions from the facility may cause exceedances of certain NAAQS at Marina Towers as a result of "downwash." The Sullivan Screening concluded that, "on average, meteorological conditions associated with plume impaction conditions on the Marina Towers condominium were screened to occur as often as 1,200 hours per year."
4. Although the Sullivan Screening does not establish conclusively that emissions from the facility result in exceedances of the NAAQS at Marina Towers, the Department believes that the results of the Sullivan Study warrant that further comprehensive analysis be conducted in accordance with DEQ and EPA approved modeling procedures in order to more fully determine the effect of emissions from the facility on the ambient air quality at Marina Towers and in the area in the immediate vicinity of the facility.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 10.1-1307 D and 10.1-1307.1 orders Mirant, and Mirant agrees, to perform the actions described in this section of the Order:

1. Mirant shall perform a refined modeling analysis to assess the effect of "downwash" from the facility on ambient concentrations of SO₂, NO₂, CO, and PM₁₀ for comparison to the applicable NAAQS in the area immediately surrounding the facility. In addition, Mirant shall perform a refined modeling analysis to assess the effect of "downwash" from the facility on ambient concentrations of mercury for comparison to the applicable Standards of Performance for Toxic Pollutants set forth in 9 VAC 5-60-200, *et seq.*, in the area immediately surrounding the facility.
2. The protocol and methodology for the modeling analysis shall be in accordance with EPA and DEQ methods and shall be approved by DEQ prior to commencement of the modeling. Mirant shall submit a proposed modeling protocol and methodology to Kenneth L. McBee, DEQ Air Modeling Program Coordinator, 629 E. Main St., Richmond VA 23219, within twenty-one (21) days of the effective date of this Order.

3. Mirant shall perform the modeling analysis immediately upon receiving written approval of the modeling protocol and methodology from DEQ. Mirant shall submit the results of the modeling analysis to Mr. McBee and the Director of the Department's Northern Virginia Regional Office no later than sixty (60) days after Mirant receives written approval of the modeling protocol and methodology.
4. In the event the modeling analysis indicates that emissions from the facility may cause exceedances of the NAAQS for SO₂, NO₂, CO, or PM₁₀, or exceedances of the Standards of Performance for Toxic Pollutants for mercury in the area immediately surrounding the facility, DEQ shall require Mirant to submit to DEQ, within ninety (90) days of submitting the modeling analysis, a plan and schedule to eliminate and prevent such exceedances on a timely basis. Upon review and approval of that plan and schedule by DEQ, the approved plan and schedule shall be incorporated by reference into this Order.
5. Mirant agrees to waive any objections it may otherwise be entitled to assert under law should DEQ seek to incorporate the approved plan and schedule into the facility's permit.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Mirant for good cause shown by Mirant, or after a proceeding as required by the Administrative Process Act for a case decision.
2. This Order addresses only those issues specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to seeking subsequent remediation of the facility as may be authorized by law and/or taking subsequent action to enforce the terms of this Order. This order shall not preclude appropriate enforcement actions by other federal, state or local regulatory agencies for matters not addressed herein.
3. Solely for the purposes of the execution of this Order, for compliance with this Order, and for subsequent actions with respect to this Order, Mirant consents to the jurisdictional allegations and conclusions of law contained herein.
4. Mirant declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order, or any subsequent deliverables required to be submitted by Mirant and approved by the Department, without the consent of Mirant.

5. Failure by Mirant to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations.

6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

7. Mirant shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such circumstance. Mirant must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Mirant shall notify the Director, NVRO, in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:

- a. The reasons for the delay or noncompliance;
- b. The projected duration of any such delay or noncompliance;
- c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and

The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director, NVRO, in writing within 24 hours of learning of any condition above, which Mirant intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, parent corporations, or their successors in interest, designees, assigns.

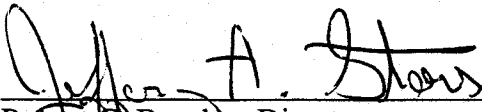
9. This Order shall become effective upon execution by both the Director of the Department of Environmental Quality or his designee and Mirant.

10. This Order shall continue in effect until:

- a. Mirant petitions the Director or his designee to terminate the order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- b. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Mirant.

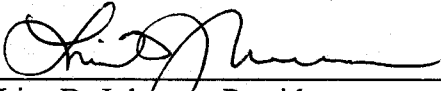
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Mirant from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

AND IT IS ORDERED this 23rd day of September 2004.

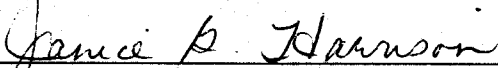
By: 
Robert G. Burnley, Director
Department of Environmental Quality

Mirant Potomac River, LLC, voluntarily agrees to the issuance of this Order.

MIRANT POTOMAC RIVER, LLC

by: 
Lisa D. Johnson, President

The foregoing instrument was signed and acknowledged before me on this 17th day of County
Sept 2004 by Lisa D. Johnson of Mirant Potomac River, LLC, in the City of
Prince George, Commonwealth of Virginia.


Notary Public

My Commission expires: 06/07/05

EXHIBIT C

News Release



Media contact:

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David Thompson, 678 315 9493
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August 24, 2005

Stockholder inquiries:

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Mirant Will Proceed with Announced Plan To Temporarily Shut Down Potomac River Generating Station

ALEXANDRIA, VA – Mirant Corp. (Pink Sheets:MIRKQ) announced today that it will temporarily halt power production at all five units of its Potomac River Generating Station by midnight, Wednesday, August 24.

Mirant pledged to take this action if an acceptable short-term solution could not be identified to alleviate potential health concerns cited in a recent computer modeling study of air quality in the area immediately surrounding the plant.

On Sunday, August 21, Mirant reduced output of all units at the plant to their lowest feasible levels as an immediate response to the study's findings.

On the evening of Friday, August 19, the Virginia Department of Environmental Quality (DEQ) set Wednesday, August 24, as a deadline for Mirant to submit a summary of actions to be taken to eliminate modeled National Ambient Air Quality Standards (NAAQS) exceedances in the immediate area surrounding the plant.

“Mirant has received and understands the DEQ’s requirements, but it is not possible for us to satisfy them in the minimal time they allowed us. As such, we are temporarily shutting down to alleviate potential health concerns to the nearby community,” said Lisa D. Johnson, president, Mirant’s Northeast and Mid-Atlantic business unit. “Mirant continues to work diligently on short- and long-term solutions that would return the plant to operation, and satisfy the DEQ. We are confident that we can identify solutions, and hopeful we can gain cooperation to implement them.”

Mirant will keep the plant in standby mode for 24 hours after shutdown, which allows for a relatively rapid return to service if ordered to do so by an appropriate authority. After that time, the plant could require several days to restart.

In recognition of the electric system reliability implications of the plant shutdown, Mirant has notified various agencies of its actions, including the DEQ, the Federal Energy Regulatory Commission, the United States Department of Energy, the United States Department of Homeland Security, the Public Service Commissions of the District of Columbia and Maryland, the Virginia State Corporation Commission, PJM Interconnection (which manages the mid-Atlantic states' transmission grid), Pepco (the local electric distribution company serving the District of Columbia and some nearby communities), and the White House.

The decision to temporarily close the plant arose from findings in a study completed August 19, 2005. It was commissioned under an agreement between Mirant and the DEQ. The computer modeling of five air pollutants from the plant showed that for three types of emissions — PM₁₀ (particulate matter with an aerodynamic diameter of 10 micrometers or smaller), NO₂ (nitrogen dioxide), and SO₂ (sulfur dioxide) – the plant's emissions have the potential to contribute to localized, modeled exceedances of NAAQS under some conditions.

The computer modeling was designed to analyze local air quality levels using 'worst case' assumptions, including the operation of all five units at maximum permitted output with maximum emissions combined with unfavorable wind conditions. The combined conditions occur infrequently, Mirant said.

The coal-fired power plant, which began operation in 1949, produces 482 megawatts of electricity for Washington D.C. and surrounding communities. It is located in Alexandria, VA, and employs 120 people. The plant has been identified by PJM and Pepco as a critical component for the reliability of the electric grid in the Washington, D.C. area.

Mirant is a competitive energy company that produces and sells electricity in the United States, the Caribbean, and the Philippines. Mirant owns or leases more than 18,000 megawatts of electric generating capacity globally. The company operates an asset management and energy marketing organization from its headquarters in Atlanta. For more information, please visit www.mirant.com.

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Caution regarding forward-looking statements:

Some of the statements included herein involve forward-looking information. Mirant cautions that these statements involve known and unknown risks and that there can be no assurance that such results will occur. There are various important factors that could cause actual results to differ materially from those indicated in the forward-looking statements, such as, but not limited to, (i) the instructions, actions, decisions and orders of the U.S. Bankruptcy Court for the Northern District of Texas, Fort Worth Division in connection with the voluntary petitions for

reorganization filed on July 14, 2003, July 15, 2003, August 18, 2003, October 3, 2003 and November 18, 2003, by Mirant Corporation and substantially all of its wholly-owned and certain non-wholly-owned U.S. subsidiaries under Chapter 11 (Chapter 11") of the United States Bankruptcy Code; (ii) the duration of Mirant's Chapter 11 proceedings and the effects of the Chapter 11 proceedings on Mirant's liquidity; (iii) changes in, or changes in the application of, environmental and other laws and regulations to which Mirant and its subsidiaries and affiliates are subject; (iv) the performance of Mirant's assets and projects; (v) potential business strategies, including acquisitions or dispositions of assets that Mirant may pursue, (vi) weather and other natural phenomenon; (vii) timely completion of permitting requirements and regulatory approvals; (viii) Mirant's inability to complete required modifications to the Potomac River facility or its operations to address the downwash issue, (ix) actions and claims of third parties (including regulators) in response to Mirant's plans to address the downwash issue and (x) other factors discussed in Mirant's Annual Report on Form 10-K for the year ended December 31, 2004 or Quarterly Report on Form 10-Q for the quarter ended June 30, 2005 filed with the Securities and Exchange Commission ("SEC"), in Mirant Americas Generation, LLC's Annual Report on Form 10-K for the year ended December 31, 2004 or Quarterly Report on Form 10-Q for the quarter ended June 30, 2005 filed with the SEC, or in Mirant Mid-Atlantic, LLC's Annual Report on Form 10-K for the year ended December 31, 2004 or Quarterly Report on Form 10-Q for the quarter ended June 30, 2005 filed with the SEC..