

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

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

**EMERGENCY PETITION AND COMPLAINT OF
THE DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION**

Pursuant to Sections 202(c), 207 and 309 of the Federal Power Act (“FPA”), 16 U.S.C. §§ 824a(c), 824f and 825h, the District of Columbia Public Service Commission (“DCPSC”) hereby submits this Emergency Petition and Complaint to avert the impending shutdown of the Potomac River Generating Station power plant (“Potomac River Plant” or “Plant”) owned and operated by Mirant Corporation and its public utility subsidiaries (collectively, “Mirant”) in Alexandria, Virginia.

Due to certain air quality concerns recently reported in an environmental study performed by the Virginia Department of Environmental Quality (“VDEQ”), Mirant has publicly announced that its Potomac River Plant will be shut down at midnight on August 24, 2005.¹ The DCPSC believes that, the proposed shutdown will have a drastic and potentially immediate effect on the electric reliability in the greater Washington, D.C., area and could expose hundreds of thousands of consumers, agencies of the Federal Government and critical federal infrastructure

¹ The DCPSC has not performed any independent study of the VDEQ findings and takes no position on the correctness of the VDEQ’s findings.

to curtailments of electric service, load shedding and, potentially, blackouts. As a result, immediate action by the Secretary of Energy (“Secretary”) and the Federal Energy Regulatory Commission (“FERC” or “Commission”) is needed to avoid the potentially dangerous and security-threatening interruption of electric service to the District of Columbia that may occur as a result of the Potomac River Plant’s proposed shutdown.

Accordingly, the DCPSC requests that the Secretary issue orders pursuant to Section 202(c) of the FPA, finding that an emergency exists within the meaning of this statutory provision as a result of the proposed shutdown of the Potomac River Plant and direct Mirant to continue the operation of the Potomac River Plant until further orders are issued. The DCPSC further requests that the Commission, pursuant to its authority under Sections 207 and 309 of the FPA, institute a hearing and take immediate action preventing Mirant from ceasing operations at the Potomac River Plant to ensure that electric reliability in the area is not adversely affected.

I. NOTICE

All correspondence related to this proceeding should be addressed to:

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II. STATEMENT OF CONCERNS

The DCPSC is the agency charged with the protection of all retail electric system consumers within the District of Columbia, including matters involving the construction and operation of electric power facilities and the rates charged for electric power.²

The District of Columbia encompasses many critical aspects of the United States government. The White House, Congress, Supreme Court, and other essential Federal Courts, most cabinet level agencies including the Departments of State, Justice, Energy, Interior, Health and Human Services, Labor, and regulatory agencies, and a host of other essential entities are located in the District. In addition, large numbers of commercial and residential consumers are located in the District. A major load shedding event triggered by the shutdown of a major generating facility combined with extreme weather or other events on the grid could be catastrophic for the District and the Nation, could endanger homeland security and threaten the ability of the Nation to function worldwide and domestically. While the shutdown of the Potomac River Plant would not in and of itself immediately have these effects, the combination of other events, such as a severe weather situation, the loss of key transmission capability or other major outages, could endanger electric service to the District. The DCPSC, with the statutory responsibility to protect the consumers of electric energy in the District, including key Federal installations, is extremely concerned about the safety, reliability and availability of electric energy in the District. The shutdown of the Potomac River Plant scheduled by Mirant in response to VDEQ's studies threatens essential electric service to the District and thus to the Nation. It is in this light that the DCPSC hereby requests that the Department of Energy

² See 11 D.C. Code Ann. §§ 34-101, et seq.

(“DOE”), the FERC, and the Department of Homeland Security take all appropriate and immediate steps to prevent the shutdown of the Potomac River Plant and to protect the Nation and the District of Columbia.

The DCPSC recognizes the complexity of the situation. The Potomac River Plant is owned by Mirant Corporation, a bankrupt enterprise with concerns regarding its potential liabilities under all scenarios with the Potomac River Plant operation or non-operation. (Mirant's proposed reorganization is pending before the FERC, and the DCPSC is an intervenor in that case and the DCPSC's Petition and Complaint are not intended to impact that proceeding.)

The Potomac River Plant is located in Virginia, which receives no power from it. Virginia has legitimate interest in the environmental impacts of the Potomac River Plant. And, distribution service in the District is provided by PEPCO, regulated by the DCPSC. Yet, there is no escaping the fact that the Potomac River Plant is for now and the foreseeable future, an essential element in the provision of electric service to the District of Columbia.³ Without the power generated by it, catastrophe could be very near. The DCPSC asks that the DOE and FERC immediately step in, pursuant to their jurisdiction under the Federal Power Act to protect the public and national interest and such other authority that exists, to prevent this extraordinary step from being taken by Mirant. The DCPSC also requests that its Petition and Complaint be referred to the Department of Homeland Security if the FERC and the DOE believe it is necessary.

³ See Washington Post Article of August 23, 2005 attached.

III. FACTUAL BACKGROUND

1. On August 22, 2005, Mirant Corporation announced that it had taken action to address concerns raised by a just-completed VDEQ environmental study of air quality in the vicinity of the Potomac River Plant.⁴

2. Mirant said that, as its initial response to the study, it had already reduced output of all five units at the Plant to their lowest feasible levels.

3. Mirant said it expects to meet soon with the VDEQ to discuss both short and long-term plans to address air quality issues. If no acceptable short-term solutions can be found, Mirant will shut down all five units at the power Plant no later than midnight **Wednesday, August 24, 2005** until a solution can be identified and implemented. It is DCPSC's understanding that no solution has been found as of the time of this filing.

4. On August 23, 2005, the DCPSC issued an order in Case No. 1023, directing PEPCO to review Mirant's August 22, 2005 press release and advise the DCPSC, in writing, of the extent to which Mirant's actions may negatively impact the local system and District of Columbia consumers. A copy of this Order is attached hereto.⁵

5. 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. The Plant has been identified as a critical component for the reliability of the electric grid in the Washington, D.C. area.

⁴ Mirant Press Release of August 22, 2005 attached.

⁵ See DCPSC's Order No. 13748 issued August 23, 2005.

6. The Plant has been designated by PJM Interconnection, the entity responsible for the reliability of the transmission system from the Mid-Atlantic States and some portions of some Midwestern states, as a facility critical to electric system reliability in the Washington, D.C. area. PJM's designation means that removing the Potomac River Plant could result in a severe strain on the transmission system and potential electrical outages if other key generation and transmission facilities become unavailable during high demand periods.

7. Because of the advance notice required to be given to PJM and the complex and lengthy physical process to shut down large coal-fired steam boilers, Mirant has continued to operate the Plant at a reduced level until midnight tonight.

8. If all of the units are shut down at Potomac River Plant, PEPCO has two 230 KV underground cables and two 69 KV lines through Blue Plains that may be available to supply the load that Potomac River Plant supplies. In addition, it is the DCPSC's understanding that PEPCO has developed as a second scenario, which assumes that if the Potomac River Plant is shut down and one of the two 230 KV lines were to go down, that there may nonetheless be sufficient transmission capability to supply the load provided by the Potomac River Plant. DCPSC considers such a scenario to be highly precarious, given the variables and the nature of the load in the District.

9. The VDEQ has been advised previously by the PJM of the impact of the shutdown of the Potomac River Plant. (See Attached letter from Craig Glazer, PJM Vice President, Government Policy, to VDEQ, dated April 14, 2004). In the PJM letter, a description of the technical aspects of the impact of the shutdown is set forth. We believe that the letter establishes the extremely serious nature of the immediate and long term impact of the Potomac River Plant shutdown.

IV. LEGAL BASIS FOR PETITION AND COMPLAINT

A. Secretary's Authority Under Section 202(c) of the FPA

Section 202(c) of the FPA states as follows:

Temporary connection and exchange of facilities during emergency. During the continuance of any war in which the United States is engaged, or whenever 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 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. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.⁶

Under this provision, the Secretary is empowered “whenever [he] determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy or of fuel or water for generating facilities, or other causes . . . 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.” The Secretary recently used this authority both during the 2000-2001 California crisis and the August 2003 Northeast blackout.⁷ As explained above and in the attached evidence, the proposed shutdown of the Potomac River Plant at midnight on August 24, 2005, creates a potential for similar

⁶ 16 U.S.C. § 824a(c).

⁷ *See, e.g.*, 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); Order No. 202-03-1 (August 14, 2003).

blackouts to occur in the greater Washington, DC, area and may have a serious adverse effect on hundreds of thousands of consumers and the Federal Government and its agencies. The DCPSC, therefore, requests that the Secretary use its emergency authority under Section 202(c) of the FPA to order Mirant to continue operating is Potomac River Plant until further orders are issued by the Secretary or the Commission in the instant proceeding.

B. FERC’s Authority Under Sections 207 and 309 of the FPA

Section 207 of the FPA provides as follows:

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: Provided, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel the public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers.⁸

This Emergency Petition and Complaint satisfies the requirements of this provision.

The DCPSC is a “State commission” within the meaning of Section 207 of the FPA. The Potomac River Plant provides “interstate service” by supplying electricity into Washington, DC, Maryland and across the entire PJM region. Mirant is a jurisdictional public utility under the FPA. The evidence attached hereto indicates that failure to avert the proposed shutdown of the Potomac River Plant will render this interstate service inadequate or insufficient. Further, no enlargement of the existing facilities is required and continuation of the Plant’s operation will ensure that adequate service is rendered to Mirant’s customers.

While Section 207 appears to require a hearing, the Commission is empowered, under Section 309 of the FPA, “to perform any and all acts, and to prescribe, issue, make, amend,

⁸ 16 U.S.C. 824f

and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the provisions of [the FPA].” The immediate relief requested in this Emergency Petition and Complaint comes squarely within this enforcement authority and is clearly in the national and public interest.

V. WAIVERS OF REGULATIONS AND SERVICE

Due to the emergency nature of the instant submission and the speed with which events have developed over the past 48 hours, the DCPSC requests a waiver of all DOE and FERC filing and other regulations that may be otherwise applicable to this submission including the regulations set forth at 10 C.F.R. § 205.370, et seq. The DCPSC is serving this Emergency Petition and complaint on all entities designated to receive service under 10 C.F.R. § 205.372. Granting this waiver is in the public interest.

VI. CONCLUSION

WHEREFORE, for the above stated reasons, the DCPSC requests that the Secretary and the FERC grant immediate relief as described herein.

Respectfully Submitted,

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Power Plant Faces Shutdown Over Pollutants

Mirant Facility That Serves D.C., Md. Violates National Air Quality Standards, Analysis Shows

By *Leef Smith*
Washington Post Staff Writer
Tuesday, August 23, 2005; Page B01

The Mirant Corp. power plant in Alexandria, which provides electricity to homes in the District and Maryland, is in violation of national air quality standards and has been ordered by Virginia officials to take immediate steps to reduce pollution. Mirant officials said they will shut down the plant by tomorrow night if they can't satisfy the state's demand.

The directive was issued Friday night by the Department of Environmental Quality after reviewing the results of an analysis that showed that some pollutants found in the vicinity of the coal-fired power plant are at times considerably higher than what national standards allow.

"People should be concerned about this information," said Bill Hayden, spokesman for the Department of Environmental Quality. "That's why we want to have steps taken immediately to fix it."

Mirant officials responded Sunday night by reducing the output of all five of its boilers from a maximum output of 482 megawatts of electricity to 175 megawatts and said they plan to meet with state officials tomorrow afternoon to discuss plans to resolve air-quality issues. Still, Mirant officials said they will temporarily shut the plant no later than midnight tomorrow if no acceptable short-term solution is agreed on.

"We acted very quickly in this matter" to address the public health concern, said Lisa D. Johnson, Mirant's regional president.

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The plant, which began operation in 1949, supplies enough electricity to the region's power grid to serve about 400,000 homes in the District and Maryland. It does not serve Virginia. Officials with PJM Interconnected, which manages the flow of electricity over transmission lines in 13 states and the District, said yesterday that a shutdown would not affect the area's power supply because it has alternative electricity sources.

"Barring some unforeseen circumstance, we'll be able to manage," said Terry Williamson, spokesman for PJM.

Atlanta-based Mirant Corp., which filed for bankruptcy in 2003, operates four plants in the area, including three in Maryland -- in Montgomery, Prince George's and Charles counties.

Neighbors of the Alexandria plant, on the banks of the Potomac in the northern end of the city, have complained for years about what they believed to be high levels of mercury, contaminants in the air and water, and of a sooty substance that they say covers surfaces around their homes and gardens.

In 2001, longtime residents decided to investigate, eventually submitting a thick report to the city that concluded that the plant was a potential danger. It cited several studies showing that a significant portion of the soot collected in the neighborhood was directly associated with Mirant. Last year, the City Council revoked a 12-year-old ordinance that allowed the plant to operate indefinitely, as well as two special-use permits, making the plant in violation of zoning and giving Mirant seven years to close shop.

In February, Mirant sued the city to stop the zoning changes. Mirant participated in the pollution study as part of a 2004 settlement agreement relating to alleged ozone violations at the Alexandria plant.

The report, based on data collected from 2000 to 2004, looks at worst-case scenarios involving pollution, weather and operational capacity. Researchers found that under certain conditions, levels of sulfur dioxide, nitrogen dioxide and particles in the vicinity of the plant are higher than the national ambient air quality standards allow.

For example, over a 24-hour period, the health-based limit for sulfur dioxide exposure is 365 micrograms per cubic meter. The study says the plant could release more than 5,000 micrograms per cubic meter within a heavily populated half-mile radius.

Johnson said Mirant will consider switching to a different type of coal that potentially has a lower sulfur content or to an injection technology that uses minerals to reduce sulfur output. Officials said

they might also consider increasing the height of their smokestacks to better allow pollutants to dissipate.

"We don't have to shut down if the solution we propose is satisfactory to all the parties involved," Johnson said. "That remains to be seen."

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News Release

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August 22, 2005

Mirant Takes Immediate Action to Address Air Quality Concerns Raised in New Study Of Area Near Potomac River Generating Station

Plant Operations Have Been Significantly Reduced; Full Shut Down to Occur Unless Acceptable Interim Operating Plan Can Be Identified by Wednesday

ALEXANDRIA, VA – Mirant Corp. (Pink Sheets:MIRKQ) announced today that it has taken rapid action to address concerns raised by a just-completed environmental computer modeling study of air quality in the vicinity of Mirant's Potomac River generating station.

Mirant said that, as its initial response to the study findings, it has already reduced output of all five units at the plant to their lowest feasible levels.

Mirant said it expects to meet soon with the Virginia Department of Environmental Quality (DEQ) to discuss both short and long-term plans to resolve the newly identified local air quality issues. If no acceptable short-term solutions can be found, Mirant will shut down all five units at the power plant no later than midnight Wednesday, August 24, until a solution can be identified and implemented.

Even taking the new study findings into consideration, the Potomac River generating station remains in compliance with all its operating permits, which set overall limits on the quantity of emissions from the plant, the company 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. The plant has been identified as a critical component for the reliability of the electric grid in the Washington, D.C. area.

“As soon as we received results of an environmental computer modeling analysis that showed emissions from the Potomac River generating station could be significantly contributing to localized, modeled exceedances of National Ambient Air Quality Standards (NAAQS), we acted quickly,” said Curt Morgan, executive vice president and chief operating officer, Mirant.

“However, it’s important to understand the nature of the study that has just been completed. The computer model was designed to analyze local air quality levels using a ‘worst case’ set of assumptions, including the operation of all five units at maximum permitted output with maximum emissions, combined with unfavorable wind conditions. These combined circumstances do not typically occur all at once, so the model works with hypothetical conditions that are not usually seen during normal plant operation,” Mr. Morgan said. “Nevertheless, we take these findings extremely seriously, as demonstrated by our actions.”

“The decision to curtail and possibly halt power production at the plant involves many complex issues, including important electric system reliability considerations in the Nation’s Capital and throughout the Mid-Atlantic region. We are working closely with all affected parties. However, the overriding factor in our decision has been, and will continue to be, protection of public health,” said Lisa D. Johnson, president, Mirant’s Northeast and Mid-Atlantic business unit.

The plant has been designated by PJM Interconnection, the entity responsible for the reliability of the transmission system from the Mid-Atlantic states as far west as Chicago, as a facility critical to electric system reliability in the Washington, D.C. area. PJM’s designation means that removing the Potomac River generating station could result in a strain on the transmission system and potential electrical outages if other key generation and transmission facilities become unavailable during high demand periods.

Because of the advance notice required to be given to the regional electric grid operator and the complex and lengthy physical process to shut down large coal-fired steam boilers, Mirant will continue to operate the plant at a reduced level for a few days.

The company also noted that it will maintain the plant in a state of operational readiness during the period of reduced operations or temporary shutdown of all units.

The new findings arose in a study completed August 19, 2005. It was commissioned under an agreement between Mirant and the Virginia Department of Environmental Quality (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 potential localized air quality concerns impact an area within a half-mile radius of the plant. The newly identified air quality impacts are the result of a phenomenon known as “downwash.” According to the U.S. Environmental Protection Agency, downwash is defined as “impacts associated with building wake effects. These effects cause the pollutant plume to fall to ground-level quicker.” At the Potomac River plant, the unique combination of relatively short emissions stacks at the power plant (165 feet) and the presence of nearby tall buildings — built well after

the power plant was completed — produce conditions that the newly completed computer model identified as being capable of causing downwash under some wind conditions. Computer modeling of possible downwash effects had never previously been required or conducted at the Potomac River plant.

“Although the exact time frame for the return to full service of the Potomac River power plant cannot currently be determined, we are confident that we can identify solutions, and hopeful we can gain the cooperation of all parties to implement them,” Ms. Johnson said.

Mirant said it does not expect to return the plant to full service until appropriate solutions are implemented. However, Mirant may be required to operate the plant to meet mandatory system stability obligations, or if there is a legal obligation to operate the plant at higher output levels than would otherwise be in effect. Mirant also said it will need to operate plant units occasionally to test technological modifications to the plant.

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.

#

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..



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Via Electronic Mail

April 12, 2004

Director
Office of Air Regulatory Development
Department of Environmental Quality
629 East Main Street
P.O. Box 10009
Richmond, Virginia 23240

Re: Potomac River Generating Plant

Dear Director:

PJM Interconnection L.L.C. ("PJM") is the Regional Transmission Organization responsible for the maintenance of electric reliability in the service territory of Potomac Electric Power Company (PEPCO). The Potomac River Generating Plant which serves greater Washington, D.C. is within the PJM Control Area. We are writing in response to your request for formal written comments concerning a proposed amendment to the state operating permit for the Mirant Mid-Atlantic Potomac River Station located in the City of Alexandria, Virginia. This letter is similar to one we previously submitted to Mirant on April 7 in response to their request and is a supplement to our letter of March 2, 2004 to Jack Welsch, a copy of which is attached for submission in the record.

This letter does not address the impact that any set of emissions standards might have on the availability or operations of the Potomac River power plant. Rather, PJM has taken as its assumption the representation made by Mirant of a limit in production by as much as 50-60% from historical levels. PJM Interconnection LLC ("PJM") has reviewed the requirement for this plant strictly from a reliability perspective in order to determine what is required to maintain suitable reliability in the region. PJM's reliability standards are governed by Mid-Atlantic Area Council ("MAAC") criteria. MAAC criteria states that the system must be planned to sustain the loss of one transmission element with any other transmission system element out of service (an N-2 contingency) under peak load conditions. As explained below, PJM 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.

As discussed in Denise Foster's letter to the Virginia DEQ dated March 2, 2004, recent analysis has confirmed that a minimum of one Potomac River unit must be available at peak load conditions to eliminate any reliability concerns. One unit is sufficient if both of the two Palmers Corner 230 kV circuits are in service. In the event

of an outage of either Palmers Corner-Blue Plains 230 kV circuit sufficient generation must be available to balance the load in the area for the loss of the other 230 kV circuit. While the exact MWs of generation required depend on the load existing at the time of the outage, review of the historical area data indicates that under all circumstances between three and five Potomac River generators would be required to maintain reliability when either of the Palmers Corner 230 kV circuit are out of service. For example, in the event one of the lines to the Potomac River plant is out of service due to maintenance, the system must be adjusted in order to be prepared to lose the next line as well.

Peak load for the summer in this region occurs between June 15 and September 15. During this period, PJM anticipates that all units would be required to be available to run in order to ensure reliability, as described above. The requirement "available to run" means the units must be made available within four hours of an unplanned trip of one of the 230 kV transmission lines serving the Potomac River plant. The start up data that has been provided to PJM by Mirant shows that the Potomac River plants require a minimum of 43 to 83 hours notice to start from the cold state.

During summer peak conditions, all five of the Potomac River units should be required to remain available within a four hour period, or remain "hot." PJM further anticipates that under typical non-peak conditions, two or three of the units would be required to remain hot for seven days a week. All five units would be required to remain hot and available to run from Tuesday through Friday each week, in order to accommodate days of the week when the load has historically reached its highest level. Theoretically, and depending on load, certain units could be shut down for the weekend with prior approval from PJM.

In summary, if Mirant intends to run the units with production decreased by 50-60%, this situation may cause the transmission system to be non-compliant with PJM's reliability standards, and PJM would request permission to have these plants available for reliability purposes.

PJM has had limited time to analyze all of the facts and consider alternatives that would address the DEQ's environmental concerns while also ensuring the continued reliability of electric power supply in greater Washington. We would welcome the opportunity to work with you and the Department in order to explore the facts further and determine a resolution that meets our respective public policy goals. Please contact the undersigned or Ms. Denise Foster of PJM should you wish to discuss this issue further.

Sincerely,

Craig Glazer
Vice President—Government Policy
PJM Interconnection, L.L.C.
202-393-7756
GLAZEC@PJM.COM

1023-E-160

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

ORDER

August 23, 2005

FORMAL CASE NO. 1023 IN THE MATTER OF THE INVESTIGATION
INTO THE EFFECT OF THE BANKRUPTCY OF MIRANT CORPORATION
ON THE RETAIL ELECTRIC SERVICE IN THE DISTRICT OF COLUMBIA,
Order No. 13748

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") directs the Potomac Electric Power Company ("Pepco") to review the attached Mirant Corporation ("Mirant") August 22, 2005 Press Release and advise the Commission, in writing, of the extent to which Mirant's actions may negatively impact the local system and District of Columbia consumers.

II. BACKGROUND

2. On August 22, 2005, Mirant issued a Press Release announcing that it had taken immediate action to reduce to the lowest feasible levels the output of all five of the units at the generation station and that it would potentially close down the station until an acceptable solution to the local air quality issues are identified and implemented. Mirant maintains that it remains in compliance with the overall limits set on the quantity of emissions from the plant.

3. The press release noted that PJM interconnection has designated the generation station as the entity responsible for the reliability of the transmission system for the Mid-Atlantic States and as critical to electric system reliability in the District of Columbia. The press release goes on to state that removal of the generation station could cause a strain on the transmission system and also electrical outages if other key generation and transmission facilities become unavailable during high demand periods.

III. DISCUSSION

4. The Commission is aware that Mirant is faced with a number of issues concerning the continued operation of the Potomac River Generating Station. However, the Commission's primary concern is system reliability in the District of Columbia. To that end, Pepco must provide an immediate assessment to the Commission regarding the impact Mirant's actions might have on the District of Columbia electrical system and

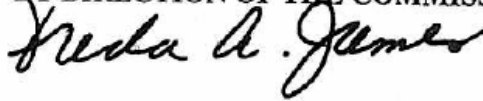
District of Columbia consumers. In its submission, Pepco must include its plan for dealing with the potential impact(s) of the shutdown of the Potomac River Generation Station, if it occurs. Additionally, Pepco is to provide to the Commission any other information pertaining to this matter received from PJM, Mirant, or any other source.

THEREFORE, IT IS ORDERED THAT:

5. Pepco is to file a response in accordance with paragraph four (4) of this Order in no later than five (5) days.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK

**FREDA A. JAMES
ACTING COMMISSION SECRETARY**