

MIRANT CORP
Form 10-Q
December 22, 2003

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

For the Quarterly Period Ended September 30, 2003

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

For the Transition Period from _____ to _____

Mirant Corporation

(Exact name of registrant as specified in its charter)

Delaware

*(State or other jurisdiction of
Incorporation or Organization)*

**1155 Perimeter Center West, Suite 100,
Atlanta, Georgia**

(Address of Principal Executive Offices)

001-16107

(Commission File Number)

(678) 579-5000

*(Registrant's Telephone Number,
Including Area Code)*

58-2056305

*(I.R.S. Employer
Identification No.)*

30338

(Zip Code)

www.mirant.com

(Web Page)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant is an accelerated filer (as defined by Rule 12b-2 of the Act). Yes No

The number of shares outstanding of the Registrant's Common Stock, par value \$0.01 per share, at December 10, 2003 was 405,468,084.

TABLE OF CONTENTS

	Page
Definitions	1
Cautionary Statement Regarding Forward-Looking Information	1
PART I FINANCIAL INFORMATION	
Item 1. Interim Financial Statements (unaudited):	
Condensed Consolidated Statements of Operations	3
Condensed Consolidated Balance Sheets	4
Condensed Consolidated Statement of Stockholders' Equity	5
Condensed Consolidated Statements of Cash Flows	6
Notes to the Condensed Consolidated Financial Statements	7
Item 2. Management's Discussion and Analysis of Results of Operations and Financial Condition	65
Item 3. Quantitative and Qualitative Disclosures about Market Risk	80
Item 4. Controls and Procedures	81
PART II OTHER INFORMATION	
Item 1. Legal Proceedings	83
Item 6. Exhibits and Reports on Form 8-K	85

DEFINITIONS

Term	Meaning
Brazos	Brazos Electric Power Cooperative
LIBOR	London InterBank Offered Rate
MMBtu	Million British thermal unit
MW	Megawatts
MWh	Megawatt-hour
Mirant Americas Energy Marketing	Mirant Americas Energy Marketing, L.P.
Mirant Americas Generation	Mirant Americas Generation, LLC
Mirant Mid-Atlantic	Mirant Mid-Atlantic, LLC
Mirant New York	Mirant New York, Inc.
Perryville	Perryville Energy Partners, LLC

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING INFORMATION

The information presented in this Form 10-Q includes forward-looking statements in addition to historical information. These statements involve known and unknown risks and relate to future events, our future financial performance or our projected business results. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "should," "expects," "plans," "anticipates," "believes," "estimates," "predicts," "targets," "potential" or "continue" or the negative of these terms or other comparable terminology.

Forward-looking statements are only predictions. Actual events or results may differ materially from any forward-looking statement as a result of various factors, which include:

General Factors

legislative and regulatory initiatives regarding deregulation, regulation or restructuring of the electric utility industry; changes in state, federal and other regulations (including rate and other regulations); changes in, or application of, environmental and other laws and regulations to which we and our subsidiaries and affiliates are subject;

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the failure of our assets to perform as expected;

our pursuit of potential business strategies, including the disposition of assets, termination of construction of certain projects or internal restructuring;

changes in market conditions, including developments in energy and commodity supply, demand, volume and pricing or the extent and timing of the entry of additional competition in the markets of our subsidiaries and affiliates;

weather and other natural phenomena;

war, terrorist activities or the occurrence of a catastrophic loss;

deterioration in the financial condition of our counterparties and the resulting failure to pay amounts owed to us or perform obligations or services due to us; and

the disposition of the pending litigation described in this Form 10-Q as well as the Company's Form 10-K for the year ended December 31, 2002 and Forms 10-Q for the quarterly periods ended March 31, 2003 and June 30, 2003;

1

Bankruptcy-Related Factors

the actions and decisions of creditors of Mirant and of other third parties with interests in 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 of the Bankruptcy Code;

the effects of the Chapter 11 filings on our liquidity and results of operations;

the instructions, orders and decisions of the bankruptcy court and other effects of legal and administrative proceedings, settlements, investigations and claims;

the ability of Mirant to operate pursuant to the terms of the debtor-in-possession financing agreement; and

the ability of Mirant to obtain and maintain normal terms with vendors and service providers and to maintain contracts that are critical to our operations.

The ultimate results of the forward looking statements and the terms of any reorganization plan ultimately confirmed can affect the value of our various pre-petition liabilities, common stock and/or other securities. No assurance can be given as to what values, if any, will be ascribed in the bankruptcy proceedings to each of these constituencies. A plan of reorganization could result in holders of the liabilities and/or securities of the Company, Mirant Americas Generation and Mirant Mid-Atlantic receiving no value for their interests. Because of such possibilities, the value of these liabilities and/or securities is highly speculative. Accordingly, we urge that caution be exercised with respect to existing and future investments in any of these liabilities and/or securities.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, events, levels of activity, performance or achievements. We expressly disclaim a duty to update any of the forward-looking statements.

2

MIRANT CORPORATION AND SUBSIDIARIES
(Debtor-in-Possession)
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002 (Restated)	2003	2002 (Restated)
(In millions, except per share data)				
Operating Revenues:				
Generation	\$ 1,477	\$ 1,247	\$ 3,928	\$ 2,937
Integrated utilities and distribution	134	128	390	362
Net trading revenue (loss)		(5)	39	147
Total operating revenues	1,611	1,370	4,357	3,446
Cost of fuel, electricity and other products	1,004	726	2,767	1,674
Gross Margin	607	644	1,590	1,772
Operating Expenses:				
Operations and maintenance	264	316	882	900
Depreciation and amortization	90	73	266	216
Impairment losses and restructuring (credits) charges	(2)	167	2,086	1,063
Gain on sales of assets, net	(23)	(4)	(49)	(32)
Total operating expenses	329	552	3,185	2,147
Operating Income (Loss)	278	92	(1,595)	(375)
Other (Expense) Income, net:				
Interest expense	(54)	(129)	(349)	(347)
Interest rate hedging losses	(94)	(2)	(110)	(7)
(Loss) gain on sales of investments, net		(3)		238
Equity in income of affiliates	8	24	23	148
Other, net	(8)	(6)	24	23
Minority interest	(15)	(20)	(43)	(56)
Interest income	5	18	22	32
Total other (expense) income, net	(158)	(118)	(433)	31
Income (Loss) From Continuing Operations Before Reorganization Items and Income Taxes	120	(26)	(2,028)	(344)
Reorganization Items, net	182		182	
Provision (Benefit) for Income Taxes	(27)	(18)	5	(139)
Loss From Continuing Operations	(35)	(8)	(2,215)	(205)
Income (Loss) from Discontinued Operations, net of tax (benefit) provision of \$0 and \$(23) for the three months ended	2	(33)	(20)	(28)

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	Three Months Ended September 30,		Nine Months Ended September 30,	
September 30, 2003 and 2002 and \$(1) and \$(18) for the nine months ended September 30, 2003 and 2002, respectively				
Loss Before Cumulative Effect of Changes in Accounting Principles	(33)	(41)	(2,235)	(233)
Cumulative Effect of Changes in Accounting Principles, net of taxes of \$2 for the nine months ended September 30, 2003			(28)	
Net Loss	\$ (33)	\$ (41)	\$ (2,263)	\$ (233)
Loss Per Share:				
Basic:				
From continuing operations	\$ (0.08)	\$ (0.02)	\$ (5.47)	\$ (0.51)
From discontinued operations		(0.08)	(0.05)	(0.07)
From cumulative effect of change in accounting principle			(0.07)	
Net loss	\$ (0.08)	\$ (0.10)	\$ (5.59)	\$ (0.58)
Diluted:				
From continuing operations	\$ (0.08)	\$ (0.02)	\$ (5.47)	\$ (0.51)
From discontinued operations		(0.08)	(0.05)	(0.07)
From cumulative effect of change in accounting principle			(0.07)	
Net loss	\$ (0.08)	\$ (0.10)	\$ (5.59)	\$ (0.58)

The accompanying notes are an integral part of these condensed consolidated financial statements.

3

**MIRANT CORPORATION AND SUBSIDIARIES
(Debtor-in-Possession)
CONDENSED CONSOLIDATED BALANCE SHEETS**

	September 30, 2003	December 31, 2002
	(Unaudited)	
	(in millions)	
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 1,582	\$ 1,706
Funds on deposit	47	180
Receivables, less provision for uncollectibles of \$234 and \$191 for 2003 and 2002, respectively	1,956	2,099
Price risk management assets	63	1,536
Assets held for sale		438
Other	586	561

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	September 30, 2003	December 31, 2002
Total current assets	4,234	6,520
Property, Plant and Equipment, net	8,164	8,408
Noncurrent Assets:		
Goodwill, net of accumulated amortization of \$300 for 2003 and 2002, respectively	608	2,683
Other intangible assets, net of accumulated amortization of \$72 and \$67 for 2003 and 2002, respectively	516	535
Investments	205	296
Notes and other receivables, less provision for uncollectibles of \$231 and \$104 for 2003 and 2002, respectively	7	140
Price risk management assets	154	582
Other	270	259
Total noncurrent assets	1,760	4,495
Total assets	\$ 14,158	\$ 19,423

LIABILITIES AND STOCKHOLDERS' EQUITY

Liabilities Not Subject to Compromise

Current Liabilities:

Short-term debt	\$ 28	\$ 65
Current portion of long-term debt	201	1,731
Accounts payable and accrued liabilities	1,124	2,359
Price risk management liabilities	66	1,535
Transition power agreements and other obligations	475	567
Other	50	388
Total current liabilities	1,944	6,645

Noncurrent Liabilities:

Long-term debt	1,337	7,091
Company obligated mandatorily redeemable securities of a subsidiary holding solely parent parent company debentures		345
Price risk management liabilities	142	1,196
Transition power agreements and other obligations	129	335
Other	466	551
Total noncurrent liabilities	2,074	9,518

Liabilities Subject to Compromise

	9,104	
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Minority Interest in Subsidiary Companies

	271	305
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Commitments and Contingencies

Stockholders' Equity:

Common stock, \$.01 par value, per share	4	4
Authorized 2,000,000,000 shares		
Issued September 30, 2003: 405,568,084 shares December 31, 2002: 404,018,156 shares		
Treasury September 30, 2003: 100,000 shares December 31, 2002: 100,000 shares		
Additional paid-in capital	4,918	4,899
Accumulated deficit	(4,107)	(1,844)
Accumulated other comprehensive loss	(48)	(102)

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	September 30, 2003	December 31, 2002
Treasury stock, at cost	(2)	(2)
Total stockholders' equity	765	2,955
Total liabilities and stockholders' equity	\$ 14,158	\$ 19,423

The accompanying notes are an integral part of these condensed consolidated statements.

4

MIRANT CORPORATION AND SUBSIDIARIES
(Debtor-in-Possession)
CONDENSED CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY (UNAUDITED)

	Common Stock	Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Treasury Stock	Comprehensive (Loss)
	(in millions)					
Balance, December 31, 2002	\$ 4	\$ 4,899	\$ (1,844)	\$ (102)	\$ (2)	
Net loss			(2,263)			\$ (2,263)
Other comprehensive income				54		54
Comprehensive loss						\$ (2,209)
Other		19				
Balance, September 30, 2003	\$ 4	\$ 4,918	\$ (4,107)	\$ (48)	\$ (2)	

The accompanying notes are an integral part of these condensed consolidated statements.

5

MIRANT CORPORATION AND SUBSIDIARIES
(Debtor-in-Possession)
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)

	Nine Months Ended September 30,	
	2003	2002
	(Restated)	
	(in millions)	
Cash Flows from Operating Activities:		
Net loss	\$ (2,263)	\$ (233)

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Nine Months Ended
September 30,

	<u> </u>	
Adjustments to reconcile net loss to net cash provided by operating activities:		
Equity in income of affiliates	(23)	(148)
Dividends received from equity investments	16	29
Cumulative effect of change in accounting principle	28	
Impairment losses and restructuring charge	2,071	1,074
Gain on sales of assets and investments	(27)	(270)
Depreciation and amortization	274	255
Non-cash charges for reorganization items	162	
Amortization of transition power agreements and other obligations (non-cash revenue)	(356)	(325)
Price risk management activities, net	206	(168)
Deferred income taxes	(27)	(58)
Minority interest	27	40
Interest rate hedging losses	110	7
Other, net	54	63
Changes in operating assets and liabilities:		
Receivables, net	119	754
Other current assets	122	76
Other assets	(37)	(85)
Accounts payable and accrued liabilities	(358)	(265)
Taxes accrued	(56)	(39)
Other liabilities	(21)	(2)
	<u> </u>	<u> </u>
Total adjustments	2,284	938
	<u> </u>	<u> </u>
Net cash provided by operating activities	21	705
	<u> </u>	<u> </u>
Cash Flows from Investing Activities:		
Capital expenditures	(444)	(1,107)
Cash paid for acquisitions	(61)	(93)
Issuance of notes receivable	(27)	(329)
Repayments on notes receivable	98	142
Proceeds from the sale of assets	297	238
Proceeds from the sale of minority owned investments		1,987
Other	4	(12)
	<u> </u>	<u> </u>
Net cash (used in) provided by investing activities	(133)	826
	<u> </u>	<u> </u>
Cash Flows from Financing Activities:		
Issuance of short-term debt, net	(36)	52
Proceeds from issuance of long-term debt	307	2,562
Repayment of long-term debt	(289)	(2,765)
Change in debt service reserve fund	43	47
Purchase of TIERS Certificates	(51)	
Other	9	6
	<u> </u>	<u> </u>
Net cash used in financing activities	(17)	(98)
	<u> </u>	<u> </u>
Effect of Exchange Rate Changes on Cash and Cash Equivalents	5	7
	<u> </u>	<u> </u>

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	Nine Months Ended September 30,	
Net (Decrease) Increase in Cash and Cash Equivalents	(124)	1,440
Cash and Cash Equivalents, beginning of period	1,706	793
Cash and Cash Equivalents, end of period	\$ 1,582	\$ 2,233
Supplemental Cash Flow Disclosures:		
Cash paid for interest, net of amounts capitalized	\$ 359	\$ 315
Cash paid (refunds received) for income taxes	\$ (13)	\$ 276
Cash paid for reorganization items (professional fees and administrative expense)	\$ 12	\$
Business Acquisitions:		
Fair value of assets acquired	\$ 61	\$ 96
Less cash paid	61	93
Liabilities assumed	\$	\$ 3

The accompanying notes are an integral part of these condensed consolidated statements.

6

MIRANT CORPORATION AND SUBSIDIARIES
(Debtor-in-Possession)

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

September 30, 2003 and 2002

A. Description of Chapter 11 Proceedings and Business

Overview

Mirant Corporation (formerly Southern Energy, Inc.) and its subsidiaries (collectively, "Mirant" or the "Company") is an international energy company incorporated in Delaware on April 20, 1993. Prior to April 2, 2001, Mirant was a subsidiary of Southern Company ("Southern").

Mirant's revenues are generated through the production of electricity in the United States, the Philippines and the Caribbean. In addition, in North America, Mirant trades and markets energy commodities to manage the financial performance of its power generation business and to take proprietary commodity trading positions, primarily in regions where it owns generating facilities or other physical assets. In the Philippines, over 80% of the Company's generation output is sold under long-term contracts. The Company's operations in the Caribbean include fully integrated electric utilities, which generate power sold to residential, commercial and industrial customers. As of September 30, 2003, Mirant owned or controlled through lease or operating agreements more than 21,000 MW of electric generating capacity. In North America, the Company also had rights to approximately 432 million cubic feet per day of natural gas production, more than 758 million cubic feet per day of natural gas transportation and approximately 860 million cubic feet of natural gas storage as of September 30, 2003.

Mirant manages its business through two principal operating segments. The Company's North America segment consists of power generation and commodity trading operations managed as an integrated business. The International segment includes power generation businesses in the Philippines, Curacao and Trinidad, and integrated utilities in the Bahamas and Jamaica.

Proceedings under Chapter 11 of the Bankruptcy Code

On July 14, 2003 and July 15, 2003 ("Petition Date"), Mirant and 74 of its wholly-owned subsidiaries in the United States (collectively, the "Original Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the U.S. Bankruptcy Court for the Northern District of Texas, Fort Worth Division ("Bankruptcy Court"). On August 18, 2003, two additional wholly-owned subsidiaries of Mirant, Mirant

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EcoElectrica Investments I, Ltd. and Puerto Rico Power Investments Ltd., commenced Chapter 11 cases under the Bankruptcy Code (the "EcoElectrica Debtors"). On October 3, 2003, four of Mirant's affiliates who jointly own directly and indirectly the Wrightsville power plant also commenced Chapter 11 cases (the "Wrightsville Debtors"). On November 18, 2003, two additional wholly-owned subsidiaries of Mirant, Mirant Americas Energy Capital, LP and Mirant Americas Energy Capital Assets, LLC, commenced Chapter 11 cases under the Bankruptcy Code (the "Energy Capital Debtors," together with the Original Debtors, the EcoElectrica Debtors, and the Wrightsville Debtors, the "Mirant Debtors"). The Chapter 11 cases of the Mirant Debtors are being jointly administered for procedural purposes only under case caption In re Mirant Corporation *et al.*, Case No. 03-46590 (DML).

Additionally, on the Petition Date, certain of Mirant's Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd. and Mirant Canada Marketing Investments, Inc., filed an application for creditor protection under the Companies Creditors' Arrangement Act in Canada, which, like Chapter 11, allows for reorganization under the protection of the court system. The operations of

7

Mirant and its subsidiaries' in the Philippines and the Caribbean were not included in the Chapter 11 filings.

The Mirant Debtors are continuing to operate their businesses as debtors-in-possession under the jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, applicable court orders, as well as other applicable laws and rules. In general, as debtors-in-possession, each of the Mirant Debtors is authorized under the Bankruptcy Code to continue to operate as an ongoing business, but may not engage in transactions outside the ordinary course of business without the prior approval of the Bankruptcy Court.

The Bankruptcy Court has established a committee of unsecured creditors for Mirant Corporation and a committee of unsecured creditors for Mirant Americas Generation (collectively, the "Creditor Committees"). The Bankruptcy Court has also established a committee of equity securities holders of Mirant Corporation (the "Equity Committee," and collectively with the Creditor Committees, the "Statutory Committees").

On November 5, 2003, certain of the Mirant Debtors entered into a two-year debtor-in-possession credit facility for up to \$500 million (the "DIP Facility") with General Electric Capital Corporation ("GECC"). The orders entered by the Bankruptcy Court approving the DIP Facility permit up to \$300 million of borrowings, which amount may be increased to \$500 million upon written approval of each of the Statutory Committees or further order of the Bankruptcy Court. The DIP Facility also contains an option, exercisable by Mirant, to remove Mirant Americas Generation and its subsidiaries as borrowers and obligors under the DIP Facility and reduce the DIP Facility commitment to a maximum of \$200 million of borrowings. See Note H for further discussion of the DIP Facility.

Subject to certain exceptions in the Bankruptcy Code, the Chapter 11 filings automatically stayed the initiation or continuation of most actions against the Mirant Debtors, including most actions to collect pre-petition indebtedness or to exercise control over the property of the bankruptcy estates. As a result, absent an order of the Bankruptcy Court, creditors are precluded from collecting pre-petition debts and substantially all pre-petition liabilities are subject to compromise under a plan or plans of reorganization to be developed by the Mirant Debtors later in the bankruptcy proceedings. Mirant estimates, based on a preliminary review and analysis of all claims conducted as of December 4, 2003, that in excess of 8,500 proofs of claim have been filed in the Chapter 11 cases. The claims total approximately \$4.6 billion. Mirant expects that this is only a portion of the claims that will ultimately be filed in this case and anticipates that the aggregate claims will be substantially more than those claims received to date. Furthermore, the Mirant Debtors have not analyzed the validity and enforceability of submitted claims or whether such claims should ultimately be allowed in the Chapter 11 proceedings. As such, the amounts receiving distributions under the plan or plans of reorganization may substantially vary from the amounts of the claims submitted.

Under the Bankruptcy Code, the Mirant Debtors also have the right to assume, assume and assign, or reject certain executory contracts and unexpired leases, subject to the approval of the Bankruptcy Court and certain other conditions. Generally, the assumption of an executory contract or unexpired lease requires a debtor to cure certain existing defaults under the contract, including the payment of

8

accrued but unpaid pre-petition liabilities. Rejection of an executory contract or unexpired lease is typically treated as a breach of the contract or lease, as of the moment immediately preceding the Chapter 11 filing. Subject to certain exceptions, this rejection relieves the debtor from performing its future obligations under that contract but entitles the counterparty to assert a pre-petition general unsecured claim for damages. Parties to executory contracts or unexpired leases rejected by a debtor may file proofs of claim against that debtor's estate for damages. Due to

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ongoing evaluation of contracts for assumption or rejection and the uncertain nature of many of the potential claims for damages, the Mirant Debtors are unable to project the magnitude of these claims at this time.

The Mirant Debtors are in the process of evaluating all of their executory contracts in order to determine which contracts will be assumed, assumed and assigned, or rejected. Once the evaluation is complete with respect to each particular contract, the applicable Mirant Debtors will file an appropriate motion with the Bankruptcy Court seeking approval to assume or reject the contract. The court will then determine to grant or deny such motions. As of the date of this filing, the Mirant Debtors have identified the following material contracts to be rejected.

PEPCO Back to Back Agreement: On August 28, 2003, the Mirant Debtors filed a motion with the Bankruptcy Court to reject an out-of-market agreement to purchase power from Potomac Electric Power Company ("PEPCO"). Under this agreement, Mirant Americas Energy Marketing is obligated to purchase power from PEPCO in the PJM marketplace at prices that are significantly higher than existing market prices for power. The Mirant Debtors forecast that it would cost such Mirant Debtors which are parties to the contract with PEPCO and their stakeholders in excess of \$300 million through 2005 if this agreement were to remain in effect. These anticipated losses, as compared to what could be obtained if market rates were applied, are even greater over the entire life of the agreement, which continues until 2021.

Perryville Tolling Agreement: On August 29, 2003, the Mirant Debtors filed a motion with the Bankruptcy Court to reject the tolling agreement with Perryville, which requires a fixed capacity payment and allows Mirant to supply the natural gas needed to fuel the Perryville generation facility and to own and market the facility's output. The rejection was effective as of September 15, 2003. At the time of the rejection, Mirant Americas held a subordinated note receivable from Perryville in the amount of \$99 million. Under the terms of the subordinated loan, Perryville is not required to make payments to Mirant Americas during the pendency of a default under the tolling agreement. In addition, under the subordinated note, Perryville has the right to set off obligations under the subordinated note against amounts payable by Mirant Americas under a guaranty of the tolling agreement. As a result, Mirant Americas does not expect to receive any future repayments on this note. Accordingly, the entire balance of the note was written off and recorded in reorganization items in the three months ended September 30, 2003. Mirant also recorded a net gain of approximately \$6 million in the three months ended September 30, 2003 to remove the capital lease debt obligations and related assets from its unaudited condensed consolidated balance sheet.

On October 29, 2003, the Mirant Debtors filed a motion with the Bankruptcy Court for approval of a settlement between Mirant and PEPCO regarding the two out-of-market transition power agreements ("TPAs"), whereby, the contracted per MWh prices for power delivered under the TPAs

9

were increased by \$6.40 and the TPAs were assumed. In addition, the agreement grants PEPCO an allowed pre-petition general unsecured claim related to the amendment of these agreements in the amount of \$105 million. On November 19, 2003, the Bankruptcy Court approved the settlement and assumption of the amended TPAs.

On November 19, 2003, the Bankruptcy Court issued an order to make effective the November 5, 2003 amendment to the Company's Global Risk Management Policy (the "Risk Management Policy"). Under this order, the Mirant Debtors are required to conduct their commercial activities in compliance with the terms and provisions of the Risk Management Policy, which defines approved markets, energy and other commodities for the trading and marketing activities of the Company's North America segment. It also establishes risk and authorization limits for Mirant personnel involved in these commercial activities.

The Risk Management Policy establishes definitions of permitted asset hedging and optimization transactions and establishes the Company's risk limits for these activities. Asset hedging activities are designed to reduce the risks around the capital Mirant has invested in physical assets, including power plants and natural gas assets, while optimization activities place additional capital at risk in order to generate a return. Optimization activities are designed to leverage the Company's proprietary knowledge in markets where it maintains a physical presence in order to earn incremental gross margin. The Risk Management Policy establishes a \$7.5 million Value at Risk ("VaR") limit for optimization activities. Mirant has not established a specific VaR limit for asset hedging activities, as they are risk reducing in nature.

On the Petition Date, the Bankruptcy Court granted the Mirant Debtors interim permission to implement a Counterparty Assurance Program. On August 27, 2003, the Bankruptcy Court issued a final order authorizing the Company's Counterparty Assurance Program. Historically, Mirant Americas Energy Marketing, one of the U.S. subsidiaries of Mirant that is also a debtor and debtor-in-possession in the Chapter 11 cases, has engaged in trading and marketing activities, including proprietary trading activities for its own account and trading activities to economically hedge Mirant's generation assets, from which various Mirant Debtors have historically derived value. Mirant Americas Energy Marketing conducts a substantial portion of its business through the use of derivative contracts that may fall within the "safe-harbor" protections set forth in Bankruptcy Code Sections 556 and 560 as well as in other sections of the Bankruptcy Code. The safe harbor provisions permit non-debtor parties to, among other things, exercise certain contractual termination rights and remedies notwithstanding the

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commencement of a Chapter 11 case. Although case law surrounding the scope of the Bankruptcy Code's safe harbor provisions remains unsettled, if a contract qualifies for safe harbor protection, a non-debtor party may be permitted to terminate or liquidate the contract upon a commencement of a bankruptcy proceeding. In addition, in certain circumstances, commencement of a bankruptcy proceeding may cause automatic termination or liquidation of the contract in accordance with the contractual terms. The Counterparty Assurance Program approved by the Bankruptcy Court supports the ability of the Mirant Debtor's to continue activities designed to maximize the value of their assets without interruption. The Bankruptcy Court orders authorized immediate relief to honor any and all obligations under existing and future trading and marketing contracts (i.e., safe harbor contracts).

10

Pursuant to the general terms of Mirant Americas Energy Marketing's derivative trading contracts, upon early termination, settlement payments are determined by the non-defaulting counterparty using mark-to-market valuation methodologies. Given the inherent uncertainties in mark-to-market valuation, Mirant may not be able to realize the net current value of derivative trading contracts that are terminated early as a result of the Chapter 11 filings, or other events of default, due to a potential increase in mark-to-market liabilities and a potential decrease in mark-to-market assets upon settlement. A number of counterparties have exercised early termination rights which will likely result in a loss of value to Mirant. Mirant recognized a loss, which is reflected in reorganization items, of \$57 million in the three and nine months ended September 30, 2003 as an estimate of losses incurred with respect to such safe harbor contracts. However, the ultimate impact of these early terminations is not known at this time. In addition, although the terms of most of Mirant Americas Energy Marketing's derivative contracts do not relieve the non-defaulting party of the obligation to pay settlement amounts owing, some of Mirant Americas Energy Marketing's counterparties owing settlement payments may refuse to make such payments absent litigation, further reducing the value of Mirant Americas Energy Marketing's unsettled terminated trading positions.

On July 24, 2003, the Bankruptcy Court approved an interim procedure requiring certain direct and indirect holders of claims, preferred securities, and common stock to provide at least ten days advance notice of their intent to buy or sell claims against the Mirant Debtors or shares in Mirant Corporation. The Bankruptcy Court entered a final order on September 17, 2003 and such order establishes notice procedures applicable only to those transactions with a person or entity owning (or, because of the transaction, resulting in ownership of) an aggregate amount of claims equal to or in excess of \$250 million or such higher amount determined under the order and, with respect to shares, only those persons or entities owning (or, because of the transaction, resulting in ownership of) 4.75% or more of any class of outstanding shares. In addition, each entity or person that owns at least \$250 million, or such higher amount determined under the order, of certain claims or preferred securities must provide Mirant and the Creditor Committees with notice of ownership information. The Court's orders also provide for expedited procedures to impose sanctions for a violation of its orders, including monetary damages and, in some cases, the voidance of any such transactions that violate the order. Upon election, a special regime allowing virtually unlimited trading of claims without having to provide notice thereof may be available to certain claimholders, although such electing claimholders may be required to sell a portion of their claims before a specific date.

The emergency and final relief was sought to prevent potential trades of claims of stock that could negatively impact the Mirant Debtors' United States net operating loss carryforwards and other tax attributes. The U.S. net operating loss carryforwards currently exceed \$1 billion and could reach \$2.5 billion by the end of 2003. Even with the relief that has been granted, Mirant cannot guarantee that it will be able to benefit from all, or any portion, of the U.S. net operating losses and other tax attributes.

At this time, it is not possible to accurately predict the effect of the Chapter 11 reorganization process on the business of the Mirant Debtors or if and when some or all of the Mirant Debtors may emerge from Chapter 11. The prospects for the future results depend on the timely and successful development, confirmation and implementation of a plan of reorganization. There can be no assurance

11

that a successful plan or plans of reorganization will be proposed by the Mirant Debtors, supported by Mirant Debtors' creditors or confirmed by the Bankruptcy Court, or that any such plan or plans will be consummated. The rights and claims of various creditors and security holders will be determined by the applicable plans as well. Under the priority scheme established by the Bankruptcy Code, certain post-petition and pre-petition liabilities need to be satisfied before equity security holders are entitled to any distributions. The ultimate recovery to creditors and equity security holders, if any, will not be determined until confirmation of a plan or plans of reorganization. No assurance can be given as to what values, if any, will be ascribed in the bankruptcy proceedings to the interests of each of these constituencies, and it is possible that the equity interests in Mirant and the other Mirant Debtors, or other securities will be restructured in a manner that will reduce substantially or eliminate any remaining value. Whether or not a plan or plans of reorganization are approved, it is possible that the assets of any one or more of the Mirant Debtors may be liquidated.

12

Accounting for Reorganization

The accompanying unaudited condensed consolidated financial statements of Mirant have been prepared in accordance with Statement of Position 90-7 ("SOP 90-7"), "Financial Reporting by Entities in Reorganization Under the Bankruptcy Code", and on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. However, as a result of the bankruptcy filings, such realization of assets and satisfaction of liabilities are subject to a significant number of uncertainties. Mirant's unaudited condensed consolidated financial statements do not reflect adjustments that might be required if Mirant (or each of the Mirant Debtors) is unable to continue as a going concern.

Unaudited condensed combined financial statements of the Mirant Debtors and Non-Debtors are set forth below:

Unaudited Condensed Combined Statements of Operations
For the Three Months ended September 30, 2003
(in millions)

	Debtors	Non-Debtors	Consolidation/ Elimination Entries	Consolidated
Operating revenues	\$ 1,347	\$ 280	\$ (16)	\$ 1,611
Cost of fuel, electricity and other products	936	83	(15)	1,004
Operating expenses	224	106	(1)	329
Operating income	187	91		278
Other expense, net	97	53	8	158
Reorganization items	179		3	182
(Benefit) provision for income taxes	(56)	29		(27)
Income from discontinued operations, net of tax		2		2
Net (loss) income	\$ (33)	\$ 11	\$ (11)	\$ (33)

12

Unaudited Condensed Combined Statements of Operations
For the Nine Months ended September 30, 2003
(in millions)

	Debtors	Non-Debtors	Consolidation/ Elimination Entries	Consolidated
Operating revenues	\$ 3,607	\$ 778	\$ (28)	\$ 4,357
Cost of fuel, electricity and other products	2,577	214	(24)	2,767
Operating expenses	2,891	298	(4)	3,185
Operating (loss) income	(1,861)	266		(1,595)
Other expense, net	307	118	8	433
Reorganization items, net	179		3	182
(Benefit) provision for income taxes	(101)	106		5
Income (loss) from discontinued operations, net of tax	11	(31)		(20)
Cumulative effect of change in accounting principle, net of tax	(28)			(28)
Net (loss) income	\$ (2,263)	\$ 11	\$ (11)	\$ (2,263)

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Unaudited Condensed Combined Balance Sheets
September 30, 2003
(in millions)

	Debtors	Non-Debtors	Consolidation/ Elimination Entries	Consolidated
Current assets	\$ 3,393	\$ 838	\$ 3	\$ 4,234
Intercompany receivables	348	571	(919)	
Property, plant and equipment, net	5,445	2,718	1	8,164
Intangible assets, net	513	611		1,124
Investments	2,411	204	(2,410)	205
Other	1,012	513	(1,094)	431
Total Assets	\$ 13,122	\$ 5,455	\$ (4,419)	\$ 14,158
Liabilities not subject to compromise:				
Current liabilities	1,504	641	(201)	1,944
Intercompany payables	239	154	(393)	
Other noncurrent liabilities	1,022	809	(1,094)	737
Long-term debt	165	1,172		1,337
Liabilities subject to compromise	9,427		(323)	9,104
Minority interest		271		271
Stockholders' equity	765	2,408	(2,408)	765
Total Liabilities and Stockholders' Equity	\$ 13,122	\$ 5,455	\$ (4,419)	\$ 14,158

13

Unaudited Condensed Combined Statements of Cash Flows
For the Nine Months ended September 30, 2003
(in millions)

	Debtors	Non-Debtors	Consolidation/ Elimination Entries	Consolidated
Net cash provided by (used in):				
Operating activities	\$ (323)	\$ 317	\$ 27	\$ 21
Investing activities	(19)	(48)	(66)	(133)
Financing activities	276	(332)	39	(17)
Effect of exchange rate changes on cash and cash equivalents	3	2		5
Net decrease in cash and cash equivalents	(63)	(61)		(124)
Cash and cash equivalents, beginning of period	1,214	492		1,706
Cash and cash equivalents, end of period	\$ 1,151	\$ 431		\$ 1,582
Cash paid for reorganization items	\$ 12			\$ 12

Classification of Liabilities as "Liabilities Not Subject to Compromise" Versus "Liabilities Subject to Compromise."

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Liabilities not subject to compromise include: (1) liabilities held by Non-Debtor entities; (2) liabilities incurred after the Petition Date; (3) pre-petition date liabilities that the Mirant Debtors expect to pay in full, even though certain of these amounts may not be paid until a plan of reorganization is approved; (4) liabilities related to pre-petition contracts that have not been rejected; and (5) pre-petition date liabilities that have been approved for payment by the Court and that the Mirant Debtors expect to pay (in advance of a plan of reorganization) over the next twelve month period in the ordinary course of business, including certain employee related items (salaries, vacation and medical benefits).

Liabilities subject to compromise refer to liabilities incurred prior to the Petition Date as specified above. The amounts of the various categories of liabilities that are subject to compromise are set forth below. These amounts represent the Company's estimates of known or potential pre-petition date claims that are likely to be resolved in connection with the bankruptcy filings. Such claims remain subject to future adjustments. Adjustments may result from negotiations, actions of the Bankruptcy Court, rejection of executory contracts and unexpired leases, the determination as to the value of any collateral securing claims, proofs of claim, or other events. There can be no assurance that the liabilities of the Mirant Debtors will not be found to exceed the fair value of their assets. This could result in claims being paid at less than 100% of their face value and the equity of Mirant's stockholders

14

being diluted or eliminated entirely. The amounts subject to compromise at September 30, 2003 consisted of the following items (in millions):

Items, absent the bankruptcy filings, that would have been considered current at September 30, 2003:	
Accounts payable and accrued liabilities	\$ 1,031
Current portion of long-term debt	1,377
Price risk management liabilities	143
Items, absent the bankruptcy filings, that would have been considered noncurrent at September 30, 2003:	
Long-term debt	5,455
Price risk management liabilities	657
Company obligated mandatorily redeemable securities of a subsidiary holding solely parent company debentures	345
Other noncurrent liabilities	96
Total	<u>\$ 9,104</u>

Accounts payable and accrued liabilities above are net of approximately \$77 million of pre-petition accounts receivable due from counterparties with which the Mirant Debtors have a netting agreement.

The classification of liabilities "not subject to compromise" versus liabilities "subject to compromise" is based on currently available information and analysis. As the bankruptcy filings proceed and additional information and analysis is completed or, as the Bankruptcy Court rules on relevant matters, the classification of amounts between these two categories may change. The amount of any such changes could be significant.

Interest Expense

The Mirant Debtors have discontinued recording interest on liabilities subject to compromise. Contractual interest on liabilities subject to compromise in excess of reported interest was approximately \$115 million for the three and nine months ended September 30, 2003.

Reorganization Items

Reorganization items under the bankruptcy filings are expense or income items that were incurred or realized by the Mirant Debtors as a result of Chapter 11 and are presented separately in the unaudited condensed consolidated statement of operations. These items include professional fees and similar types of expenses incurred directly related to the bankruptcy filings, loss accruals or gains or losses resulting from activities of the reorganization process, and interest earned on cash accumulated

15

by the Mirant Debtors. For the three and nine months ended September 30, 2003, reorganization items were as follows (in millions):

Professional fees and administrative expense	\$ 18
Provision for write off of subordinated note from Perryville	99
Gain on write off of Perryville capital lease	(6)
Provision for terminated contracts	57
Interest income	(2)
Estimated damage claims	16
	<hr/>
Total	\$ 182
	<hr/>

Professional fees and administrative expense relate to legal, accounting and other professional costs directly associated with the reorganization process.

For the three and nine months ended September 30, 2003, the \$99 million write off of the subordinated note receivable from Perryville and the net gain on the write off of the Perryville capital lease debt obligations and related assets resulted from the rejection of the Perryville tolling agreement. For the three and nine months ended September 30, 2003 a \$57 million loss provision was recorded with respect to price risk management contracts that were terminated by counterparties.

B. Accounting and Reporting Policies

Basis of Presentation

The accompanying condensed consolidated financial statements (unaudited) of Mirant and its wholly-owned subsidiaries have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for interim financial information and with the instructions for Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. For further information, refer to the consolidated financial statements and footnotes thereto included in the Company's Form 10-K for the year ended December 31, 2002.

The financial statements include the accounts of Mirant and its wholly-owned as well as controlled majority owned subsidiaries and have been prepared from records maintained by Mirant and its subsidiaries in their respective countries of operation. All significant intercompany accounts and transactions have been eliminated in consolidation. Investments in minority-owned companies in which Mirant exercises significant influence over operating and financial policies are accounted for using the equity method. Majority or jointly owned affiliates, which Mirant does not control, are also accounted for using the equity method of accounting.

Certain prior period amounts have been reclassified to conform to the current year financial statement presentation. The results of operations for the three and nine months ended September 30, 2003 are not necessarily indicative of the results to be expected for the full year.

Cumulative Effect of Change in Accounting Principles

In August 2001, the FASB issued SFAS No. 143, "Accounting for Asset Retirement Obligations" ("SFAS No. 143"). The Company adopted this statement effective January 1, 2003. SFAS No. 143 provides accounting requirements for costs associated with legal obligations to retire tangible, long-lived assets. Under SFAS No. 143, the asset retirement obligation is recorded at fair value in the period in which it is incurred by increasing the carrying amount of the related long-lived asset. In each subsequent period, the liability is accreted to its fair value and the capitalized costs are depreciated over the useful life of the related asset. In the first quarter of 2003, the Company recorded a charge as a cumulative effect of change in accounting principle of approximately \$3 million, net of taxes, related to its adoption of SFAS No. 143. The Company also recorded property, plant and equipment of \$6 million and noncurrent asset retirement obligations of \$9 million as of January 1, 2003. The Company's asset retirement obligations are associated primarily with the proper closure or removal of its fuel oil storage tanks, removal of generation facilities and the capping of its ash landfills. The net asset retirement liability as of January 1, 2003 and September 30,

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2003, which is reported in other noncurrent liabilities in the Company's balance sheet, and the changes in the net liability for the nine months ended September 30, 2003 were as follows (in millions):

Liability at January 1, 2003	\$ 9
Liability settled in 2003	
Accretion expense in 2003	1
	<hr/>
Net liability at September 30, 2003	\$ 10
	<hr/>

Had the Company adopted SFAS No. 143 as of January 1, 2002, its noncurrent asset retirement liabilities would have been approximately \$7 million as of January 1, 2002, and its income from continuing operations and net income for the three and nine months ended September 30, 2002 would have been lower by less than \$1 million. Basic and diluted earnings per share for the three and nine months ended September 30, 2002 would not have been affected.

In October 2002, the Emerging Issues Task Force ("EITF") reached a consensus on EITF Issue 02-03, "Issues Related to Accounting for Contracts Involved in Energy Trading and Risk Management Activities," to rescind EITF Issue 98-10, "Accounting for Contracts Involved in Energy Trading and Risk Management Activities." Accordingly, energy-related contracts that are not accounted for pursuant to SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," such as transportation contracts, storage contracts and tolling agreements, are required to be accounted for as executory contracts using the accrual method of accounting and not at fair value. Energy-related contracts that meet the definition of a derivative pursuant to SFAS No. 133 continue to be carried at fair value. In addition, the Task Force observed that accounting for energy-related inventory at fair value by analogy to the consensus on EITF Issue 98-10 is not appropriate and that inventory is not to be recognized at fair value. As a result of the consensus on EITF Issue 02-03, all non-derivative energy trading contracts on the consolidated balance sheet as of January 1, 2003 that existed on October 25, 2002 and inventories that were recorded at fair value have been adjusted to historical cost resulting in a cumulative effect adjustment of \$25 million, net of taxes, which was recorded in the first quarter of 2003.

17

New Accounting Standards

In January 2003, the FASB issued Interpretation No. 46, "Consolidation of Variable Interest Entities, an interpretation of ARB No. 51" ("FIN 46"). FIN 46 addresses the consolidation by business enterprises of variable interest entities, as defined in the interpretation. FIN 46 expands existing accounting guidance regarding when a company should include in its financial statements the assets, liabilities and activities of another entity. The consolidation requirements of FIN 46 apply immediately to variable interest entities created or obtained after January 31, 2003. The consolidation requirements apply to variable interest entities created before February 1, 2003 in the first fiscal year or interim period beginning after June 15, 2003. Certain of the disclosure requirements apply to all financial statements issued after January 31, 2003. On December 17, 2003, the FASB approved various amendments to FIN 46 including a partial deferral of effective dates. The Company will implement the provisions of the revised FIN 46 according to the timeline set forth in the final release, which is expected by December 31, 2003.

In April 2003, the FASB issued SFAS No. 149, "Amendment of Statement 133 on Derivative Instruments and Hedging Activities," which amends and clarifies accounting for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities under SFAS No. 133. SFAS No. 149 clarifies (1) under what circumstances a contract with an initial net investment meets the characteristics of a derivative, (2) when a derivative contains a financing component that should be reflected as a financing on the balance sheet and the statement of cash flows and (3) the definition of the term underlying in SFAS No. 133 to conform to language used in FASB Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others." In addition, SFAS No. 149 also incorporates certain Derivative Implementation Group ("DIG") Implementation Issues. The provisions of SFAS No. 149 are effective for contracts entered into or modified after June 30, 2003, and for hedging relationships designated after June 30, 2003. The guidance is applied to hedging relationships on a prospective basis. The adoption of SFAS No. 149 did not materially impact the accounting for Mirant's derivative contracts.

In May 2003, the FASB issued SFAS No. 150, "Accounting for Certain Financial Instruments with Characteristics of Both Liabilities and Equity," which establishes standards for classification and measurement of certain financial instruments with characteristics of both liabilities and equities. Under SFAS No. 150, such financial instruments are required to be classified as liabilities in the statement of financial position. The financial instruments affected include mandatorily redeemable stock, certain financial instruments that require or may require the issuer to buy back some of its shares in exchange for cash or other assets, and certain obligations that can be settled with shares of stock. SFAS No. 150 is effective for all financial instruments entered into or modified after May 31, 2003 and must be applied to Mirant's existing financial instruments beginning on July 1, 2003. Mirant determined that the 6.9 million shares of trust preferred securities sold in October 2000 for total proceeds of

\$345 million fall within the scope of SFAS No. 150. These preferred securities were previously reported as company obligated mandatorily redeemable securities of a subsidiary holding parent company supported debentures, which was reflected between the liabilities and stockholders' equity sections on the balance sheet. As of September 30, 2003, these preferred securities are reflected in the liabilities section of the balance sheet and classified as liabilities subject to compromise in accordance with SOP 90-7.

On June 25, 2003, the FASB cleared the guidance contained in DIG Issue C20, "Scope Exceptions: Interpretation of the Meaning of "Not Clearly and Closely Related" in Paragraph 10(b) regarding Contracts with a Price Adjustment Feature." DIG Issue C20, which applies only to the guidance in paragraph 10(b) of SFAS No. 133 and not in reference to embedded derivatives, describes three circumstances in which the underlying in a price adjustment incorporated into a contract that otherwise satisfies the requirements for the normal purchases and normal sales exception would be considered to be "not clearly and closely related to the asset being sold or purchased." The guidance in DIG Issue C20 is effective for Mirant on October 1, 2003. Mirant is currently assessing DIG Issue C20 but does not anticipate that it will have a material impact on its consolidated results of operations, cash flows or financial position.

In July 2003, the EITF reached consensus on EITF Issue No. 03-11, "Reporting Realized Gains and Losses on Derivative Instruments That Are Subject to FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, and Not Held for Trading Purposes" that address whether realized gains and losses on derivative contracts not held for trading purposes should be reported on a net or gross basis is a matter of judgment that depends on the relevant facts and circumstances. In analyzing the facts and circumstances, Mirant considered EITF Issue No. 99-19, "Reporting Revenue Gross as a Principal versus Net as an Agent," and Accounting Principles Board ("APB") Opinion No. 29, "Accounting for Nonmonetary Transactions," and determined that realized gains and losses on derivative contracts not held for trading purposes should be reported on a net basis. The consensus applies to transactions or arrangements entered into by Mirant after September 30, 2003. Mirant currently reflects realized and unrealized gains and losses on electricity derivative contracts not held for trading purposes in generation revenues on a net basis in the unaudited condensed consolidated statements of operations. Mirant currently reflects realized and unrealized gains and losses on fuel derivative contracts not held for trading purposes in cost of fuel, electricity and other products on a net basis in the unaudited condensed consolidated statements of operations.

On November 5, 2003, the FASB made certain revisions to the implementation guidance contained in DIG Issue C15, "Scope Exceptions: Normal Purchases and Normal Sales Exception for Certain Option-Type Contracts and Forward Contracts in Electricity." DIG Issue C15 describes the criteria that permits power purchase or sale agreements to qualify for the normal purchases and normal sales exception. The revisions are effective on the first day of the first fiscal quarter beginning after November 10, 2003. Mirant has reviewed the modifications to DIG Issue C15 and has determined that they will not have a material impact on its unaudited condensed consolidated results of operations, cash flows or financial position.

Revenue Recognition

Mirant recognizes generation revenue from the sale of energy and integrated utilities and distribution revenue from the sale and distribution of energy when earned and collection is probable. The Company recognizes revenue when electric power is delivered to a customer pursuant to contractual commitments that specify volume, price and delivery requirements. When a long-term electric power agreement conveys the right to use the generating capacity of Mirant's plant to the buyer

of the electric power, that agreement is evaluated to determine if it is a lease of the generating facility rather than a sale of electric power.

Commodity Trading Activities

Commodity trading activities are accounted for under the mark-to-market method of accounting. Under the mark-to-market method of accounting, energy trading contracts are recorded at fair value in the accompanying unaudited condensed consolidated balance sheets. The determination of fair value considers various factors, including closing exchange or OTC market price quotations, time value and volatility factors underlying options and contractual commitments, price activity for equivalent or synthetic instruments in markets located in different time zones and counterparty credit quality. The net realized gain or loss and net unrealized gain or loss resulting from the change in the fair value of energy trading contracts are reported as "net trading revenues." Prior to the effective date of EITF Issue 02-03, all energy trading contracts, including transportation and storage contracts and inventory held for trading purposes, were marked-to-market under the provisions of EITF Issue 98-10.

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Subsequent to the rescission of EITF Issue 98-10 the mark-to-market method is used to account for energy trading contracts entered into after October 25, 2002 that meet the criteria of derivative financial instruments pursuant to SFAS No. 133. These criteria require such contracts to be related to future periods, to contain one or more underlying positions and one or more notional amounts, require little or no initial net investment and to have terms that require or permit net settlement of the contract in cash or its equivalent. As such transactions may be settled in cash, the fair value of the assets and liabilities associated with these transactions is reported at estimated settlement value based on current prices and rates as of each balance sheet date. The net unrealized gains or losses resulting from the revaluation of such contracts during the period are recognized currently in net trading revenues in the accompanying unaudited condensed consolidated statements of operations. Assets and liabilities associated with energy trading activities are reflected in Mirant's unaudited condensed consolidated balance sheet as either price risk management assets and liabilities or liabilities subject to compromise, as appropriate. Price risk management assets and liabilities are classified as short-term (i.e., current) or long-term based on the term, or tenor, of the contracts.

Derivative Financial Instruments

SFAS No. 133 requires that derivative financial instruments be recorded in the balance sheet at fair value as either assets or liabilities, and that changes in fair value be recognized currently in earnings, unless specific hedge accounting criteria are met. If the derivative is designated as a fair value hedge, the changes in the fair value of the derivative and of the hedged item attributable to the hedged risk are recognized currently in earnings. If the derivative is designated as a cash flow hedge, the changes in the fair value of the derivative are recorded in other comprehensive income ("OCI") and the realized gains and losses related to these derivatives are recognized in earnings in the same period as the settlement of the underlying hedged transaction. Any ineffectiveness relating to cash flow hedges is recognized currently in earnings. The assets and liabilities related to derivative instruments for which hedge accounting criteria are met are reflected within other current and non-current assets and liabilities in the accompanying unaudited condensed consolidated balance sheets. The assets and liabilities related to derivative instruments that do not qualify for hedge accounting treatment are

20

included in price risk management assets and liabilities. The assets and liabilities related to derivative instruments that are associated with assets and liabilities held for sale are presented net within those captions on our accompanying unaudited condensed consolidated balance sheets. Many of Mirant's electricity sales and fuel supply agreements that otherwise would be required to follow derivative accounting qualify as normal purchases and normal sales under SFAS No. 133 and are therefore exempt from fair value accounting treatment. The majority of the Company's commodity derivative financial instruments do not qualify for hedge accounting and therefore changes in such instruments' fair value are recognized currently in earnings. Unless the contract is held for trading purposes, changes in fair value of electricity derivative financial instruments are reflected in generation revenue and changes in fair value of fuel derivative contracts are reflected in cost of fuel and other products in the unaudited condensed consolidated statements of operations.

Stock-Based Compensation

Mirant accounts for its stock-based employee compensation plans under the intrinsic-value method of accounting prescribed by APB Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations. Under this method, compensation expense for employee stock options is recorded on the date of grant only if the current market price of the underlying stock exceeds the exercise price. SFAS No. 123, "Accounting for Stock-Based Compensation" established accounting and disclosure requirements using a fair-value-based method of accounting for stock-based employee compensation plans. As allowed by SFAS No. 123, the Company has elected to continue to apply the intrinsic-value-based method of accounting described above, and has adopted only the disclosure requirements of SFAS No. 123. The following table illustrates the effect on net income (loss) if the fair-value-based method had been applied to all outstanding and unvested awards in each period (in millions, except per share data).

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
		(Restated)		(Restated)
Net loss, as reported	\$ (33)	\$ (41)	\$ (2,263)	\$ (233)
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	8	6	21	18
Pro forma net loss	\$ (41)	\$ (47)	\$ (2,284)	\$ (251)

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	Three Months Ended September 30,		Nine Months Ended September 30,	
Loss per share:				
Basic as reported	\$ (0.08)	\$ (0.10)	\$ (5.59)	\$ (0.58)
Basic pro forma	\$ (0.10)	\$ (0.12)	\$ (5.64)	\$ (0.62)
Diluted as reported	\$ (0.08)	\$ (0.10)	\$ (5.59)	\$ (0.58)
Diluted pro forma	\$ (0.10)	\$ (0.12)	\$ (5.64)	\$ (0.62)

21

C. Restatement and Reclassifications

The unaudited condensed consolidated financial statements of the Company as of September 30, 2002 and for the three and nine months ended September 30, 2002 have been restated to correct certain accounting errors made in preparing those financial statements as well as other reclassifications and adjustments.

Discontinued Operations

The financial statements for prior periods have been restated to report the revenues and expenses of the components of the Company that were disposed of separately as discontinued operations. Income (loss) from discontinued operations for the three and nine months ended September 30, 2003 and 2002 includes the following components of the Company that will be disposed of or have been disposed of in 2003: Mirant Europe B.V., the Neenah generating facility in Wisconsin, the Tanguisson power plant in Guam and investments held by Mirant Americas Energy Capital, LP ("Mirant Americas Energy Capital") and Mirant Canada Energy Capital, Ltd. ("Mirant Canada Energy Capital"). Income (loss) from discontinued operations for the three and nine months ended September 30, 2002 also includes the operations of Mirant Americas Production Company in Louisiana, MAP Fuels Limited in Queensland, Australia and the State Line generating facility in Indiana which were disposed of in 2002.

A summary of the operating results for these discontinued operations for the three and nine months ended September 30, 2003 and 2002 follows (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
		(Restated)		(Restated)
Operating revenue	\$ 2	\$ 17	\$ 4	\$ 84
Operating expenses, including other (expense) income, net		(73)	(25)	(130)
Income (loss) before income taxes	2	(56)	(21)	(46)
Income tax benefit		23	1	18
Net income (loss)	\$ 2	\$ (33)	\$ (20)	\$ (28)

22

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The table below presents the components of the balance sheet accounts classified as current assets and liabilities held for sale as of December 31, 2002 (in millions):

	December 31, 2002
Current Assets:	
Current assets	\$ 73
Property, plant and equipment	128
Investments	4
Notes receivable	228
Other assets	5
	438
Current Liabilities:	
Taxes and other payables	\$ 10
Deferred taxes	3
Debt	106
Other liabilities	6
	125

Total current liabilities related to assets held for sale are included in other current liabilities in the condensed consolidated balance sheets. No balance sheet accounts were classified as assets held for sale or liabilities held for sale at September 30, 2003.

Restatement of Consolidated Financial Statements

In addition to the changes to the Company's previously issued financial statements required by the adoption of SFAS No. 144, management has identified certain errors which necessitated a restatement of the Company's third quarter 2002 consolidated financial statements. The reclassifications also include the net presentation of revenues and expenses associated with energy trading activities required by EITF Issue 02-03. The following tables and discussion highlight the effects of the restatement adjustments and reclassifications on the previously reported unaudited condensed consolidated statements of operations for the three and nine months ended September 30, 2002 and the unaudited condensed consolidated statement of cash flows for the nine months ended September 30, 2002 (in millions).

23

Consolidated Statements of Operations

	For the Three Months Ended September 30, 2002				
	Increase (Decrease) Due To:				
	As Previously Reported	Discontinued Operations	EITF Issue 02-03	Restatement Adjustments	As Restated
Operating Revenues:					
Generation	\$ 2,130	\$ (4)	\$ (750)	\$ (129)	1,247
Integrated utilities and distribution	128				128
Net trading loss		(3)		(2)	(5)
	2,258	(7)	(750)	(131)	1,370
Cost of fuel, electricity and other products	1,473	(1)	(750)	4	726
	1,473	(1)	(750)	4	726

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For the Three Months Ended September 30, 2002

Gross Margin	785	(6)	(135)	644
Operating Expenses:				
Operations and maintenance	340	(17)	(7)	316
Depreciation and amortization	82	(6)	(3)	73
Impairment losses and restructuring charges	230	(54)	(9)	167
Gain on sales of assets, net	(5)		1	(4)
Total operating expenses	647	(77)	(18)	552
Operating Income	138	71	(117)	92
Other (Expense) Income, net:				
Interest expense	(128)	3	(4)	(129)
Interest rate hedging losses			(2)	(2)
Loss on sales of investments, net	(4)		1	(3)
Equity in income of affiliates	25		(1)	24
Other, net	(4)	(1)	(1)	(6)
Minority interest	(20)			(20)
Interest income	28	(11)	1	18
Total other expense, net	(103)	(9)	(6)	(118)
Income (Loss) From Continuing Operations				
Before Income Taxes	35	62	(123)	(26)
Provision (Benefit) for Income Taxes	38	25	(81)	(18)
Loss From Continuing Operations	(3)	37	(42)	(8)
Income (Loss) from Discontinued Operations, net of taxes of \$23				
	2	(37)	2	(33)
Net Loss	\$ (1)	\$	\$ (40)	\$ (41)
Earnings (Loss) Per Share:				
Basic:				
From continuing operations	\$ (0.01)		\$	(0.02)
From discontinued operations	0.01			(0.08)
Net loss	\$ (0.00)		\$	(0.10)
Diluted:				
From continuing operations	\$ (0.01)		\$	(0.02)
From discontinued operations	0.01			(0.08)
Net loss	\$ (0.00)		\$	(0.10)

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Operating revenue for the three months ended September 30, 2002 was adjusted by \$123 million as a result of the following restatement adjustments:

a decrease of \$11 million for certain power purchase agreements previously accounted for as executory contracts that are now reflected at fair value under SFAS No. 133;

an increase of \$12 million to record a full requirements contract in Texas at fair value;

a decrease of \$11 million to reverse mark-to-market gains on energy loans held by Mirant's Energy Capital business, which were previously accounted for at fair value;

a decrease of \$69 million to reflect the fair value of certain commodity financial instruments previously accounted for as cash flow hedges under SFAS No. 133; and

a decrease of \$44 million as a result of mark-to-market adjustments in Mirant's natural gas trading business.

Cost of fuel, electricity and other products, excluding depreciation, for the three months ended September 30, 2002 was adjusted by \$12 million primarily as a result of the reversal of \$8 million of contra-expense during the three months ended September 30, 2002 due to the change in the accounting for certain power purchase agreements to fair value accounting.

25

The provision for income tax for the three months ended September 30, 2002 was adjusted primarily as a result of the tax effect of the restatement adjustments above.

For the Nine Months Ended September 30, 2002

	Increase (Decrease) Due To:				
	As Previously Reported	Discontinued Operations	EITF Issue 02-03	Restatement Adjustments	As Restated
Operating Revenues:					
Generation	\$ 4,619	\$ (35)	\$ (1,289)	\$ (358)	\$ 2,937
Integrated utilities and distribution	362				362
Net trading revenue (loss)		5	(42)	184	147
Total operating revenues	4,981	(30)	(1,331)	(174)	3,446
Cost of fuel, electricity and other products	3,027	(5)	(1,331)	(17)	1,674
Gross Margin	1,954	(25)		(157)	1,772
Operating Expenses:					
Operations and maintenance	934	(32)		(2)	900
Depreciation and amortization	236	(17)		(3)	216
Impairment losses and restructuring charges	1,137	(68)		(6)	1,063
Gain on sales of assets, net	(33)			1	(32)
Total operating expenses	2,274	(117)		(10)	2,147

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For the Nine Months Ended September 30, 2002

Operating Income (Loss)	(320)	92	(147)	(375)
Other (Expense) Income, net:				
Interest expense	(354)	9	(2)	(347)
Interest rate hedging losses			(7)	(7)
Gain on sales of investments, net	276		(38)	238
Equity in income of affiliates	145		3	148
Other, net	28	(4)	(1)	23
Minority interest	(54)		(2)	(56)
Interest income	60	(32)	4	32
Total other (expense) income, net	101	(27)	(43)	31
Loss From Continuing Operations Before Income Taxes				
Taxes	(219)	65	(190)	(344)
Provision (Benefit) for Income Taxes	19	26	(184)	(139)
Loss From Continuing Operations	(238)	39	(6)	(205)
Income (Loss) from Discontinued Operations, net of taxes of \$18				
	11	(39)		(28)
Net Loss	\$ (227)	\$	\$ (6)	\$ (233)
Earnings (Loss) Per Share:				
Basic:				
From continuing operations	\$ (0.59)		\$	(0.51)
From discontinued operations	0.03			(0.07)
Net loss	\$ (0.56)		\$	(0.58)
Diluted:				
From continuing operations	\$ (0.59)		\$	(0.51)
From discontinued operations	0.03			(0.07)
Net loss	\$ (0.56)		\$	(0.58)

26

Operating revenue for the nine months ended September 30, 2002 was adjusted by \$174 million as a result of the following restatement adjustments:

a decrease of \$19 million for certain power purchase agreements previously accounted for as executory contracts that are now reflected at fair value under SFAS No. 133;

a decrease of \$18 million to record a full requirements contract in Texas at fair value;

a decrease of \$43 million to reflect the fair value of certain commodity financial instruments previously accounted for as cash flow hedges under SFAS No. 133;

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a decrease of \$11 million to reverse mark-to-market gains on energy loans held by Mirant's Energy Capital business, which were previously accounted for at fair value; and

a decrease of \$83 million as a result of mark-to-market adjustments in Mirant's natural gas trading business.

Cost of fuel, electricity and other products, excluding depreciation, for the nine months ended September 30, 2002 was adjusted by \$17 million primarily as a result of the liquidation damages of \$20 million related to a receivable from Enron, offset by the reversal of \$42 million of contra-expense during the nine months ended September 30, 2002 due to the change in the accounting for certain power purchase agreements to fair value accounting.

Gain on sale of investments, net was adjusted by \$38 million, as a result of changes in the calculation of the gain recognized from the Company's sale of its Bewag investment in the first quarter of 2002.

The provision for income tax for the nine months ended September 30, 2002 was adjusted primarily as a result of the increase in the tax benefit related to the impairment of our investment in Western Distribution Holdings Limited and WPD Investment Holdings (collectively, "WPD") and as a result of the tax effect of the other restatement adjustments described above.

27

Consolidated Statements of Cash Flows

	Nine Months Ended September 30, 2002	
	As Previously Reported	As Restated
Cash Flows from Operating Activities:		
Net loss	\$ (227)	\$ (233)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Equity in income of affiliates	(145)	(148)
Dividends received from equity investments	29	29
Impairment losses and restructuring charge	1,080	1,074
Gain on sales of assets and investments	(309)	(270)
Depreciation and amortization	258	255
Amortization of transition power agreements and other obligations (non-cash revenue)	(436)	(325)
Price risk management activities, net	(169)	(168)
Deferred income taxes	101	(58)
Minority interest	38	40
Interest rate hedging losses		7
Other, net	65	63
Changes in operating assets and liabilities:		
Receivables, net	609	754
Other current assets	106	76
Other assets	(72)	(85)
Accounts payable and accrued liabilities	(200)	(265)
Taxes accrued	(52)	(39)
Other liabilities	7	(2)
	<u>910</u>	<u>938</u>
Total adjustments	910	938

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	Nine Months Ended September 30, 2002	
	2002	2001
Net cash provided by operating activities	683	705
Cash Flows from Investing Activities:		
Capital expenditures	(1,111)	(1,107)
Cash paid for acquisitions	(94)	(93)
Issuance of notes receivable	(329)	(329)
Repayments on notes receivable	142	142
Proceeds from the sale of assets	242	238
Proceeds from the sale of minority owned investments	1,987	1,987
Other	(11)	(12)
Net cash provided by investing activities	826	826
Cash Flows from Financing Activities:		
Issuance of short-term debt, net	52	52
Proceeds from issuance of long-term debt	2,562	2,562
Repayment of long-term debt	(2,765)	(2,765)
Change in debt service reserve fund	47	47
Other	15	6
Net cash used in financing activities	(89)	(98)
Effect of Exchange Rate Changes on Cash and Cash Equivalents	7	7
Net Increase in Cash and Cash Equivalents	1,427	1,440
Cash and Cash Equivalents, beginning of period	856	793
Cash and Cash Equivalents, end of period	\$ 2,283	\$ 2,233

Operating cash flows in the nine months ended September 30, 2002 increased by \$22 million primarily as a result of the restatement of the Company's cash balances at both December 31, 2001 and September 30, 2002.

D. Price Risk Management Assets and Liabilities

As of September 30, 2003, the fair value, net of credit reserves, of Mirant's price risk management portfolio is as follows (in millions):

	Price Risk Management	
	Assets at September 30, 2003	Liabilities at September 30, 2003
Electricity	\$ 145	\$ 112
Natural gas	59	85
Crude oil	3	1
Other	10	10
Total	\$ 217	\$ 208

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Power sales agreements and contracts that are used to mitigate exposure to commodity prices but do not meet the definition of a derivative or are excluded from fair value accounting under certain exceptions in SFAS No. 133 are accounted for as executory contracts.

The volumetric weighted average maturity, or weighted average tenor, of the price risk management portfolio at September 30, 2003 was 1.5 years. The net notional amount, or net short position, of the price risk management assets and liabilities at September 30, 2003 was approximately 3.7 million equivalent MWh.

Certain long-term power purchase agreements previously included in price risk management liabilities and totaling \$800 million were reclassified to liabilities subject to compromise in the three months ended September 30, 2003 as a result of contract rejections. The term of these long-term power purchase agreements at September 30, 2003 is presented below.

	Long-Term Power Purchase Agreements	
	Quantity(MW)	Term
Ohio Edison	450	2005
Panda	230	2021
Montgomery County Resource Recovery Facility	50	2003

E. Dispositions and Acquisitions

Dispositions

Tanguisson: In April 2003, Mirant completed the sale of its Tanguisson power plant in Guam for approximately \$16 million, which approximated the book value of the assets sold.

Mirant Americas Energy Capital: In May and August 2003, Mirant Americas Energy Capital completed the sale of the two remaining investments held by Mirant Americas Energy Capital for approximately \$41 million and \$3 million, respectively, which approximated book value.

29

Mirant Canada operations: In May 2003, Mirant announced that it had entered into agreements to sell its Canadian natural gas aggregator services contracts, a significant portion of its natural gas transportation contracts and a portion of its storage contracts. The contracts included in the sale represent 380 million cubic feet per day of natural gas transportation assets and approximately 1.3 billion cubic feet of natural gas storage, as well as Mirant's "netback pool." The netback pool represents natural gas marketing contracts that aggregate and market the supply of natural gas from over 500 Canadian natural gas producers associated with the former TransCanada pool business. As part of the sale agreements, Mirant paid approximately \$28 million. The sale closed in July 2003. Mirant recognized a pre-tax gain of approximately \$18 million related to this transaction, which is reflected in gain on sale of assets.

Birchwood: In May 2003, Mirant announced that it had entered an agreement to sell all but one half of one percent of its 50% ownership interest in the Birchwood generating plant located near Fredricksburg, Virginia. On October 9, 2003, the Bankruptcy Court entered an order approving the consummation of the sale. Mirant completed the sale on October 31, 2003 for a price of \$70 million. Mirant estimates that it will recognize a pre-tax gain of approximately \$67 million related to this transaction.

The financial statements for current and prior years have been reclassified to report the revenues and expenses separately as discontinued operations for the asset sales of Neenah, Mirant Americas Energy Capital and Tanguisson. (See Note C)

Joint Venture Activity

Toledo and Panay: In June 2003, Mirant Global Corporation ("MGC"), a wholly-owned subsidiary of Mirant (Philippines) Corporation ("MPC"), entered into an agreement with the First Metro Investment Corporation Group ("the FMIC Group") to pursue business opportunities in power generation in the Visayas region of the Philippines. The FMIC Group agreed to acquire the entire equity interest in Panay Power Corporation, a 72 MW power generation company on the island of Panay and a 22.8 MW generation asset of the Sunrise Power Project located in the island of Luzon. The total acquisition cost of these two projects is approximately \$64 million in addition to the assumption of the project debt at Panay Power Corporation of approximately \$32 million. Also, a new project debt of approximately \$6.4 million is expected to be raised

for the 22.8 MW generation asset. The transaction reached financial close on December 4, 2003. Effective December 4, 2003, the FMIC Group contributed its equity interest in Panay Power Corporation and in the project company that owns the 22.8 MW generation asset of the Sunrise Power Project to an entity, Claredon Tower Holdings, Inc. ("Claredon"). Claredon became a subsidiary of MGC in exchange for a 50% ownership interest in MGC. As a result, the FMIC Group and MPC each have a 50% voting interest in the joint venture. MPC's investment in MGC at September 30, 2003 aggregated \$21 million. The FMIC Group and MPC have agreed not to transfer all or any of their shares in MGC for a period of three years. No gain or loss was recorded as a result of this transaction.

30

F. Goodwill and Other Intangible Assets

Goodwill

Following is a summary of the changes in goodwill for the nine months ended September 30, 2003 (in millions):

	<u>North America</u>	<u>International</u>	<u>Total</u>
Goodwill, December 31, 2002	\$ 2,074	\$ 609	\$ 2,683
Impairment losses	(2,067)		(2,067)
Purchase accounting, reclassifications, disposal and tax adjustments	(7)	(1)	(8)
Goodwill, September 30, 2003	\$	\$ 608	\$ 608

Upon the adoption of SFAS No. 141, "Business Combinations," Mirant reclassified its intangible assets relating to trading rights resulting from business combinations, to goodwill effective January 1, 2002. The reclassification increased goodwill by \$149 million, net of accumulated amortization of \$13 million and decreased intangible assets by a corresponding amount. During the nine months ended September 30, 2003, Mirant disposed of the Tanguisson power plant in Guam and finalized its purchase accounting adjustments for West Georgia and TransCanada assets, resulting in reclassifications among deferred taxes, prepaid assets and goodwill.

In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets," Mirant evaluates its goodwill and indefinite-lived intangible assets for impairment at least annually and periodically if indicators of impairment are present. SFAS No. 142 requires that if the fair value of a reporting unit is less than its carrying value including goodwill (Step I), further analysis is required to determine if the amount of recorded goodwill is impaired. The impairment charge is calculated as the difference between the implied fair value of the reporting unit goodwill and its carrying value (Step II).

As a result of two credit rating downgrades, the public opposition by certain influential banks that did not support Mirant's restructuring proposals, material unfavorable variances to its prior plan through the second quarter and a lawsuit filed against its restructuring proposal by Mirant Americas Generation bondholders, Mirant reassessed its goodwill for impairment at June 30, 2003. The results of the Company's Step I analysis indicated that a goodwill impairment existed at June 30, 2003. Using the data from Step I, Mirant completed a Step II analysis. Mirant's resulting estimate of impairment was \$2.1 billion, which is reflected as an impairment expense in the unaudited condensed consolidated statements of operations for the nine months ended September 30, 2003.

31

Other Intangible Assets

Following is a summary of intangible assets as of September 30, 2003 and December 31, 2002 (in millions):

	<u>September 30, 2003</u>		<u>December 31, 2002</u>	
	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>	<u>Gross Carrying Amount</u>	<u>Accumulated Amortization</u>
Weighted Average Amortization Lives				

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		September 30, 2003		December 31, 2002	
Trading rights	30 years	\$ 207	\$ (34)	\$ 207	\$ (29)
Development rights	35 years	217	(22)	217	(18)
Emissions allowances	32 years	131	(11)	131	(8)
Other intangibles	14 years	33	(5)	47	(12)
Total other intangible assets		\$ 588	\$ (72)	\$ 602	\$ (67)

Substantially all of Mirant's other intangible assets are subject to amortization and are being amortized on a straight-line basis over their estimated useful lives, ranging up to 40 years. Amortization expense was approximately \$5 million and \$6 million for the three months ended September 30, 2003 and 2002, respectively, and \$16 million for each of the nine months ended September 30, 2003 and 2002. Assuming no future acquisitions, dispositions or impairments of intangible assets, amortization expense is estimated to be \$19 million for each of the following five years.

The trading rights represent intangible assets recognized in connection with asset purchases that represent the Company's ability to generate additional cash flows by incorporating Mirant's trading activities with the acquired generating facilities. Development rights represent the right to expand capacity at certain acquired generating facilities. The existing infrastructure, including storage facilities, transmission interconnections, and fuel delivery systems, and contractual rights acquired by Mirant provide the opportunity to expand or repower certain generation facilities. This ability to repower or expand is expected to be at significant cost savings compared to greenfield construction.

As described in "Critical Accounting Policies and Estimates," the carrying value of certain intangible assets above may be impaired in light of the bankruptcy filings and any changes to the Company strategy in implementing its plan or plans of reorganization.

G. Restructuring Charges and Impairment Losses

Mirant adopted a plan in March 2002 to restructure its operations by exiting certain activities (including its European trading and marketing business), canceling and suspending planned power plant developments, closing business development offices, and severing employees in an effort to better position the Company to operate in the then current business environment. During the nine months ended September 30, 2003, Mirant recorded additional restructuring charges of \$10 million. Additional impairment losses of approximately \$5 million for the nine months ended September 30, 2003 were incurred as a result of Mirant's restructuring efforts to reduce costs and sell non-strategic assets.

32

Components of the restructuring charges for the three and nine months ending September 30, 2003 and 2002 are as follows (in millions):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
		(Restated)		(Restated)
Impairment losses	\$	\$ 161	\$ 2,076	\$ 759
Restructuring charges:				
Costs to cancel equipment orders and service agreements per contract terms	(2)		2	256
Severance of employees and other employee termination-related charges		6	8	48
Total restructuring charges (credits)	(2)	6	10	304

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	Three Months Ended September 30,		Nine Months Ended September 30,					
Total impairment losses and restructuring charges (credits)	\$	(2)	\$	167	\$	2,086	\$	1,063

During the nine months ended September 30, 2003, Mirant terminated approximately 203 employees as part of its restructuring. For the nine months ended September 30, 2003, Mirant paid \$19 million related to restructuring charges recorded in that period, of which, \$17 million was associated with workforce reductions and related costs. As of September 30, 2003, Mirant had no liability for accrued restructuring charges, and as of September 30, 2002, Mirant had a liability for accrued restructuring charges of approximately \$197 million. Following is a summary of the liability for accrued restructuring charges as of September 30, 2003 and 2002 (in millions):

	Balance at January 1, 2003	Adjustments (Statement of Operations Impact)		Cash Payments	Other Adjustments	Reclassification	Balance at September 30, 2003			
		Expense	Reversal							
Costs to cancel equipment and projects	\$	\$	4	\$	(2)	\$	\$			
Costs to sever employees and other employee-termination related costs		9	12	(4)	(17)					
Total	\$	9	\$	16	\$	(6)	\$	(19)	\$	\$

33

	Balance at January 1, 2002	Adjustments (Statement of Operations Impact)		Cash Payments	Other Adjustments	Reclassification	Balance at September 30, 2002						
		Expense	Reversal										
Costs to cancel equipment and projects	\$	\$	262	\$	(6)	\$	(43)	\$	5	\$	(31)	\$	187
Costs to sever employees and other employee-termination related costs			63	(15)	(35)	(3)							10
Total	\$	\$	325	\$	(21)	\$	(78)	\$	2	\$	(31)	\$	197

H. Debt

The following developments have occurred in the Company's debt structure since December 31, 2002.

Debtor-in-Possession Financing

On November 5, 2003 certain of the Mirant Debtors (the "DIP Borrowers") entered into a two-year debtor-in-possession credit facility providing for borrowings or the issuance of letters of credit in an amount not to exceed the lesser of \$500 million or the then existing "borrowing base" (the "DIP Facility") with General Electric Capital Corporation ("GECC"). The borrowing base is the aggregate value assigned to specified power generation assets of the DIP Borrowers that are in the collateral base for the DIP Facility. The initial borrowing base is \$777 million. However, upon the occurrence of certain trigger events, including an event that has a material adverse effect on the business, operations or value

of a power generation facility, the borrowing base may be revalued or reserves against the borrowing base may be imposed, thus lowering the borrowing base amount. The orders entered by the Bankruptcy Court approving the DIP Facility permit up to \$300 million of borrowings, which amount may be increased to \$500 million upon written approval of each of the Statutory Committees or further order of the Bankruptcy Court. The DIP Facility also contains an option, exercisable by Mirant, to remove Mirant Americas Generation and its subsidiaries as borrowers and obligors under the DIP Facility and reduce the DIP Facility commitment to a maximum of \$200 million of borrowings. Borrowings under the DIP Facility are secured by substantially all of the assets of the DIP Borrowers. Interest on the DIP Facility will be computed based on LIBOR plus 350 basis points or prime rate plus 250 basis points. With respect to letters of credit, the DIP Borrowers are required to pay a monthly letter of credit fee equal to 350 basis points in addition to an issuance fee at a rate of 25 basis points per annum. In addition, the DIP Borrowers are required to pay a monthly commitment fee of 75 basis points on the unused portion of the DIP Facility.

Pursuant to the DIP Facility, the DIP Borrowers are subject to a number of affirmative, reporting, restrictive and financial covenants. The covenant descriptions below are summaries of the respective provisions and reference is made to the DIP Facility:

Affirmative Covenants. Each DIP Borrower has agreed to certain affirmative covenants, subject to specified exceptions and qualifications, including:

- (i) to, and to cause its domestic subsidiaries to, do all things necessary to preserve and keep in full force and effect its corporate existence and its material rights and franchises, and preserve and protect all of its material assets and properties used or useful in the conduct of its business, and keep the same in good repair and working order;
- (ii) to pay and discharge or cause to be paid and discharged promptly all material charges payable by it, except when a nonpayment is permitted or a payment is prohibited by the Bankruptcy Court or the Bankruptcy Code;
- (iii) to, and to cause each of its domestic subsidiaries to, keep adequate books and records with respect to its business activities in which proper entries, reflecting all financial transactions, are made in accordance with GAAP;
- (iv) to, and to cause each of its domestic subsidiaries to, maintain insurance described in form and amounts as is customary for companies of the same or similar size in the same or similar businesses as that of the DIP Borrowers and as commercially reasonably available and with insurers reasonably acceptable to the agent;
- (v) to, and to cause each of its domestic subsidiaries to, comply with all federal, state, local and foreign laws and regulations applicable to it, including those relating to ERISA, labor laws, and environmental laws, except to the extent that the failure to comply, individually or in the aggregate, could not reasonably be expected to have a material adverse effect;
- (vi) except as could not reasonably be expected to have a material adverse effect, to maintain the status of the specified power generators as "exempt wholesale generators" under PUHCA and the authority of the specified power generators to sell at wholesale electric capacity and energy at market-based rates; and
- (vii) to, and to cause each of its subsidiaries to, and to cause each person within its control to conduct its operations and keep and maintain its real property in compliance with all environmental laws and environmental permits other than noncompliance that could not reasonably be expected to have a material adverse effect, and to implement any and all investigation, remediation, removal and response actions that the DIP Borrower determines (in its good faith reasonable judgment) are appropriate or necessary to maintain the value and marketability of the real property for its current use or to otherwise comply with environmental laws and environmental permits pertaining to the release of any hazardous material.

Reporting Requirements. Under the DIP Facility, the DIP Borrowers have agreed to provide certain reports and notifications, subject to exceptions and qualifications specified in the DIP Facility, including:

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- (i) On a weekly basis, an updated cash flow forecast prepared by the Company, as of the last day of the immediately preceding week;
- (ii) On a monthly and quarterly basis, financial information, certified by management, regarding Mirant and its subsidiaries, consisting of (a) consolidated unaudited balance sheets as of the close of such month/quarter and the related statements of income (loss) and cash flows, in each case, for that month/quarter and the portion of the year ending as of the close of such month/quarter and unaudited statements of income (loss) and cash flows for such month/quarter, setting forth specified comparative information, and (b) unaudited consolidating statements of income (loss) as of the close of such month/quarter and for the portion of the year ending as of the close of such month/quarter and gross margin statements as of the close of such month/quarter and for that portion of the year ending as of the close of such month/quarter, all the foregoing prepared in accordance with GAAP. In addition, the Company has agreed to deliver quarterly a management discussion and analysis for the Company that includes a comparison to projections for that quarter, where available, and a comparison of performance for that quarter to the corresponding period in the prior year;
- (iii) On a quarterly basis, (a) a summary of the outstanding balance of all intercompany notes as of the last day of such quarter (not to include intercompany notes solely between non-US subsidiaries), and (b) an operating report in respect of each power generation facility setting forth for the quarter, (i) the equivalent availability factor, (ii) the capacity factor, (iii) megawatt hours generated, (iv) average heat rates, (v) equivalent forced outage rates, and (vi) such additional items as the agent may reasonably request and that are readily available;
- (iv) As soon as available, but not later than the end of each year (for 2004, the delivery date has been extended to January 31, 2004), an annual operating plan for the Company and its subsidiaries, on a consolidated basis;
- (v) On an annual basis, within ninety (90) days after the end of each year, (a) a summary of the outstanding balance of all intercompany notes as of the last day of such year, (b) audited financial statements for the Company on a consolidated basis, prepared in accordance with GAAP and certified without qualification or exception (other than as to going-concern), by an independent certified public accounting firm of national standing or otherwise acceptable to agent and (c) unaudited consolidating statements of income and gross margin;
- (vi) Promptly upon learning thereof, but in any event within five (5) days thereafter, notice of the occurrence of any material adverse development with respect to any previously disclosed litigation or of any litigation commenced or threatened against the Company and its subsidiaries that meets specified thresholds; and
- (vii) Within three business days after an executive officer of any DIP Borrower has actual knowledge of any event that triggers the imposition of a "reserve" against the borrowing base

36

under the DIP Facility, the Company shall provide a written, detailed description of such event, action or omission.

Restrictive Covenants. Under the DIP Facility, the DIP Borrowers are subject to certain restrictions on their activities, including their ability to:

- (i) merge or amalgamate with, consolidate with, acquire all or substantially all of the assets or stock of, or otherwise combine with or acquire, any person;
- (ii) make, or permit any of their domestic subsidiaries to, make or permit to exist any investment in, or make, accrue or permit to exist any loans or advances of money to, any person;
- (iii)

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create, incur, assume or permit to exist, or permit any of their domestic subsidiaries to create, incur, assume or permit to exist, any indebtedness, except for specified exceptions, including indebtedness incurred after the Petition Date secured by permitted purchase money liens and capital lease obligations, indebtedness under the DIP Facility, unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law, indebtedness of the DIP Borrowers incurred prior to the Petition Date, certain indebtedness by and among the DIP Borrowers and their respective domestic subsidiaries, and other indebtedness of the DIP Borrowers and their respective domestic subsidiaries in an aggregate amount not to exceed at any time outstanding \$10 million;

- (iv) enter into any transaction with any affiliate thereof (other than a transaction among the DIP Borrowers and their domestic subsidiaries) except in the ordinary course of and pursuant to the reasonable requirements of the DIP Borrower's or its domestic subsidiary's business and upon fair and reasonable terms that are not materially less favorable to the DIP Borrower or its domestic subsidiary than would be obtained in a comparable arm's length transaction;
- (v) enter into any lending or borrowing transaction with employees, except to the extent not prohibited by the Bankruptcy Code, loans or advances to its respective employees in the ordinary course of business consistent in all material respects with past practices for travel and entertainment expenses, relocation costs and similar purposes;
- (vi) other than as due under existing agreements, pay to any officer, director or employee any employment wages, salary, bonus or other compensation of any type or character that is not consistent in all material respects with past practices other than retention, performance and severance payments which, if required, have been approved by the Bankruptcy Court and which have been approved by Agent (provided that consent shall not be required for the making of any retention, performance or severance payment so long as borrowing availability under the DIP Facility is more than \$250 million);
- (vii) make any changes in any of its business objectives, purposes or operations that could reasonably be expected to have or result in a material adverse effect on the business and operations of the DIP Borrowers;

37

- (viii) except for exceptions specified in the DIP Facility, create, incur, assume or permit to exist any guaranteed indebtedness;
- (ix) create, incur, assume or permit to exist, or permit any of their domestic subsidiaries to create, incur, assume or permit to exist, any lien on or with respect to its assets except for specified permitted liens, including certain permitted property tax liens, liens in existence on the Petition Date, liens created after the Petition Date by conditional sale or other title retention agreements or in connection with purchase money indebtedness with respect to assets acquired by any DIP Borrower or any domestic subsidiary thereof in the ordinary course of business, liens with respect to letters of credit, cash and cash equivalents to secure permitted energy marketing and trading activities, liens granted in connection with permitted energy marketing and trading activities in favor of a customer or trading counterparty pursuant to a netting agreement or similar arrangement entered into in the ordinary course of business, and liens on assets, other than specified collateral, not in excess of \$5 million;
- (x) sell, transfer, lease, convey, assign or otherwise dispose of any of its properties or other assets, subject to exceptions specified in the DIP Facility, which exceptions include, the sale of inventory in the ordinary course of business consistent with past practice, the disposition in the ordinary course of obsolete property, certain leases or subleases of real property that do not interfere in any material respect in the business of any DIP Borrower, so long as no default or event of default has occurred and is continuing, and any disposition of assets for total consideration not exceeding \$300 million in the aggregate in deemed collateral release value and \$600 million in the aggregate of gross proceeds (provided, that the consideration shall not be less than the fair market value and not less than ninety percent (90%) of the consideration for each such asset sold shall be payable in cash); and
- (xi) incur obligations in connection with energy trading and marketing activities with a maximum VaR in excess of \$60 million at any time outstanding, subject to grace periods specified in the DIP Facility.

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Financial Covenants. The DIP Borrowers have agreed to certain financial covenants under the DIP Facility.

38

Capital Expenditures. During the respective quarters, the DIP Borrowers have agreed not to make capital expenditures (other than certain non-budgeted capital expenditures) in excess of the aggregate amounts set forth opposite each of such periods:

For the Fiscal Quarter Ended:	Maximum Amount:
December 31, 2003	\$ 77,073,000
March 31, 2004	\$ 74,374,000
June 30, 2004	\$ 68,809,000
September 30, 2004	\$ 38,802,000
December 31, 2004	\$ 35,606,000
March 31, 2005	\$ 76,168,000
June 30, 2005	\$ 82,442,000
September 30, 2005	\$ 74,724,000

However, if the amount of capital expenditures (not including non-budgeted capital expenditures) actually made by the DIP Borrowers and their domestic subsidiaries during any such period is less than the amount that is permitted to be made during such period, then the unused portion thereof may be carried forward to subsequent periods.

Springing Financial Covenant. Beginning with the month in which availability under the DIP Facility is at any time less than or equal to \$50 million, the DIP Borrowers and their subsidiaries, on a consolidated basis, shall be required to meet a minimum fixed charge coverage ratio of at least 1.0 or have unrestricted cash of at least \$500 million.

Minimum Liquidity. Under the DIP Facility, the DIP Borrowers and their domestic subsidiaries are required to maintain liquidity of not less than \$50 million at all times.

Mirant Corporation and Mirant Americas Generation, LLC

Mirant Corporation is in default under approximately \$4.2 billion of outstanding debt. Mirant is also in default on obligations to cash collateralize \$761 million and \$646 million of outstanding letters of credit as of September 30, 2003 and December 5, 2003, respectively. Mirant Americas Generation is in default under \$2.8 billion of outstanding debt. Mirant has sought and received a final order from the Bankruptcy Court authorizing it to extend specified letters of credit issued under a pre-petition credit facility pursuant to an amendment to such credit facility entered into with the lenders and the letter of credit issuing bank. Subject to certain exceptions in the Bankruptcy Code, the Chapter 11 filings automatically stayed the continuation of most actions against Mirant and Mirant Americas Generation, including most actions to collect pre-petition indebtedness or to exercise control over the property of the bankruptcy estate. As a result, absent an order of the Bankruptcy Court, creditors are precluded from collecting pre-petition debts and substantially all pre-petition liabilities are subject to compromise under a plan or plans of reorganization. Therefore, the amounts of outstanding debt may not reflect actual cash outlays in the future period.

39

West Georgia Generating Company, LLC Credit Facility

Due to the proceedings under Chapter 11, West Georgia Generating Company, LLC is in default under its \$140 million secured credit facility. As noted earlier, the Chapter 11 filings automatically stayed the continuation of most actions against Mirant and its subsidiaries that filed for protection under Chapter 11, including West Georgia Generating Company, LLC ("WGGC"), including any action to collect pre-petition indebtedness or to exercise control over the property of the bankruptcy estate. WGGC and its lenders have entered into a stipulation and agreed order, entered by the Bankruptcy Court on December 3, 2003, providing for WGGC to use cash collateral to fund its operations in exchange for providing adequate protection to such lenders. WGGC has agreed to make periodic cash payments equal to interest owing at the non-default rates under the applicable loan documents.

Mirant Americas Development Capital, LLC Domestic Turbine Lease Facility

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On May 29, 2003, the commitments under the \$500 million "true-funding" tranche of the domestic turbine lease facility (the Series A1 Notes, the Series B1 Notes and the Series C1 Certificates) were reduced to \$231 million, the amount outstanding at that date. Mirant Americas Development Capital subsequently paid \$27 million under the lease facility in the three months ended June 30, 2003. The amount outstanding under the Series A1 Notes, the Series B1 Notes and the Series C1 certificates was \$214 million at July 14, 2003 and September 30, 2003, of which approximately \$192 million was recourse to Mirant Corporation pursuant to its guarantee of certain obligations of Mirant Americas Development Capital. As noted above, the Chapter 11 filings automatically stayed the continuation of most actions against Mirant and its subsidiaries that filed for protection under Chapter 11, including Mirant Americas Development Capital, including any action to collect pre-petition indebtedness or to exercise control over the property of the bankruptcy estate.

Mirant Asset Development and Procurement B.V. Europe Power Island Lease

In February 2003, Mirant Asset Development and Procurement B.V. repaid and terminated its Power Island Acquisition Facility.

Mirant Americas Energy Capital Three Year Credit Facility

In March 2003, Mirant Americas Energy Capital terminated and repaid the outstanding \$50 million under its credit facility.

Mirant Curacao Investments II Credit Facility

In October 2002, Mirant Curacao Investments II ("Mirant Curacao") entered into a \$20 million five-year partial amortizing credit facility with RBTT Merchant Bank Limited, Trinidad. Interest on the credit facility is 10.15% per annum. The loan is secured by the shares and assets of Mirant Curacao. In addition, the loan is guaranteed by Mirant Curacao Investments Ltd. ("MCI"), a wholly-owned subsidiary of Mirant Curacao, and is secured by dividends paid or payable to MCI with respect to common shares of Curacao Energy Company, Ltd. and preferred shares of Integrated Utilities Holding

40

N.V. and the proceeds of certain put/call options with respect to such preferred shares. Initially the loan was also secured by a guarantee issued by Mirant Corporation. The Chapter 11 filing by Mirant Corporation as guarantor under the credit facility triggered a default under the credit facility. Subsequent to the Chapter 11 filing, Mirant Curacao obtained a waiver of the default and a release of the Mirant Corporation guarantee.

Jamaica Public Service Company Credit Facilities

In March 2003, Jamaica Public Service Company ("JPSCO"), in which Mirant has an 80% ownership interest, entered into a \$30 million, 7 year amortizing credit facility with RBTT Merchant Bank Limited, Trinidad ("RBTT"). Interest on the RBTT credit facility is 12% per annum. The RBTT credit facility refinanced an existing short-term loan that was used to finance the Bogue construction facility. In May 2003, JPSCO entered into a \$45 million, 11.5 year amortizing credit facility with International Finance Corporation ("IFC"). Interest on the IFC credit facility is computed on the basis of LIBOR plus 750 basis points per annum. Principal payments on the IFC credit facility begin in 2007. Both loans are secured by the generation assets, cash and accounts receivable of JPSCO but are non-recourse to Mirant.

Mirant's Atlanta Headquarters Capital Lease

Included in long-term debt on the Company's unaudited condensed consolidated balance sheet is the capital lease obligation related to Mirant's Atlanta headquarters. As of September 30, 2003, the remaining obligations under this lease totaled \$148 million with a term expiring in May 2015. Mirant currently leases 367,000 square feet of office space for its Atlanta Headquarters but has subsequently renegotiated the lease, subject to Bankruptcy Court approval to reduce its space commitments to approximately 216,000 square feet and reduce the term of the lease to three years.

I. Comprehensive Income

Comprehensive income or loss includes: unrealized gains and losses on available for sale securities, certain derivatives that qualify as cash flow hedges, and hedges of net investments; the translation effects of foreign net investments; adjustments for additional minimum pension liabilities; and the Company's proportionate share of other comprehensive income or loss of affiliates. The following table sets forth the comprehensive loss for the three and nine months ended September 30, 2003 and 2002 (in millions):

**Three Months Ended
September 30,**

**Nine Months Ended
September 30,**

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	2003	2002	2003	2002
		(Restated)		(Restated)
Net loss	\$ (33)	\$ (41)	\$ (2,263)	\$ (233)
Other comprehensive income (loss)	54	(6)	54	22
Comprehensive income (loss)	\$ 21	\$ (47)	\$ (2,209)	\$ (211)

41

Components of accumulated other comprehensive income (loss) consisted of the following (in millions):

Balance, December 31, 2002	\$ (102)
Other comprehensive (loss) for the period:	
Net change in fair value of derivative hedging instruments, net of tax effect of \$1	(2)
Reclassification of derivative net losses to earnings, net of tax effect of \$(40)	70
Cumulative translation adjustment	(9)
Unrealized gains on TIERS investments	(5)
Other comprehensive income	54
Balance, September 30, 2003	\$ (48)

The \$48 million balance of accumulated other comprehensive loss as of September 30, 2003 includes the impact of a \$2 million loss related to interest rate hedges, \$33 million of foreign currency translation losses, \$6 million representing Mirant's share of accumulated other comprehensive losses of unconsolidated affiliates, \$2 million of minimum pension liability and \$5 million of gains related to its "available for sale" securities described below.

Pursuant to the Chapter 11 filings, interest payments have been suspended on the debt associated with the interest rate swaps. Therefore, the remaining after-tax losses relating to interest rate hedges included in OCI, which totaled \$61 million, were reclassified from OCI into earnings in the three months ended September 30, 2003, effective with the Chapter 11 filing.

During the first quarter of 2003, Mirant paid \$51 million to purchase \$83 million in aggregate principal amount of TIERS Fixed Rate Certificates that are secured by other underlying Mirant bond instruments. Mirant may sell TIERS Certificates or extinguish the underlying Mirant debt. Mirant treats the TIERS Certificates as "available for sale" securities under SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities". Consequently, Mirant marks the TIERS Certificates to market and records gains or losses in OCI. For balance sheet presentation purposes, the Company's investment in TIERS certificates is netted against its long-term debt, which is reflected in liabilities subject to compromise in the condensed consolidated balance sheets.

J. Litigation and Other Contingencies

The Company is involved in a number of significant legal proceedings. In certain cases, plaintiffs seek to recover large and sometimes unspecified damages, and some matters may be unresolved for several years. The Company cannot currently determine the outcome of the proceedings described below or the ultimate amount of potential losses. Pursuant to SFAS No. 5, "Accounting for Contingencies," management provides for estimated losses to the extent information becomes available indicating that losses are probable and that the amounts are reasonably estimable. Additional losses

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resulting from these legal proceedings could have a material adverse effect on the Company's consolidated financial position, results of operations or cash flows.

Effect of Chapter 11 Filings

As discussed above under Note A *Proceedings under Chapter 11 of the Bankruptcy Code*, on the Petition Date, August 18, 2003, October 3, 2003, and November 18, 2003, the Mirant Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. Additionally, certain of Mirant's Canadian subsidiaries have filed an application for creditor protection under the Companies Creditors' Arrangement Act in Canada, which, like Chapter 11, allows for reorganization. The subsidiaries of Mirant that operate in the Philippines and the Caribbean were not included in the Chapter 11 filings.

As debtors-in-possession, the Mirant Debtors are authorized under Chapter 11 to continue to operate as an ongoing business, but may not engage in transactions outside the ordinary course of business without the prior approval of the Bankruptcy Court. As of the Petition Date, most pending litigation (including some of the actions described below) is stayed, and absent further order of the Bankruptcy Court, no party, subject to certain exceptions, may take any action, again subject to certain exceptions, to recover on pre-petition claims against the Mirant Debtors. One exception to this stay of litigation is actions or proceedings by a governmental agency to enforce its police or regulatory power. The claims asserted in litigation and proceedings to which the stay applies may be fully and finally resolved in connection with the administration of the bankruptcy proceedings and, to the extent not resolved, will need to be addressed in the context of any plan or plans of reorganization. On November 19, 2003, the Bankruptcy Court entered an order staying through at least April 2004 most litigation pending against current or former officers, directors and managers of the Mirant Debtors arising out of the performance of their duties and against certain potential indemnities of the Mirant Debtors. The Bankruptcy Court took that action to avoid the risk that the continuation of such litigation would impede the Mirant Debtors' ability to reorganize or would have a negative impact upon the assets of the Mirant Debtors. At this time, it is not possible to predict the outcome of the Chapter 11 filings or their effect on the business of the Mirant Debtors or outstanding legal proceedings.

California and Western Power Markets

The Company is subject to litigation related to its activities in California and the western power markets and the high prices for wholesale electricity experienced in the western markets during 2000 and 2001. Various lawsuits and complaints have been filed by the California Attorney General, the California Public Utility Commission ("CPUC"), the California Electricity Oversight Board ("EOB") and various states' rate payers in state and federal courts and with the Federal Energy Regulatory Commission (the "FERC"). Most of the plaintiffs in the rate payer suits seek to represent a state-wide class of retail rate payers. In addition, civil and criminal investigations have been initiated by the Department of Justice, the General Accounting Office, the FERC and various states' attorneys general. These matters involve claims that the Company engaged in unlawful business practices and generally seek unspecified amounts of restitution and penalties, although the damages alleged to have been

43

incurred in some of the suits are in the billions of dollars. One of the suits brought by the California Attorney General seeks an order requiring the Company to divest its California plants.

The Company has reserved approximately \$295 million for losses related to the Company's operations in California and the western power markets during 2000 and 2001. Resolution of these matters is subject to resolution of the ongoing litigation for the matters pending in courts and for those matters pending at the FERC to the issuance of final decisions by the FERC.

The plaintiffs in the Pastorino, RDJ Farms, Century Theatres, El Super Burrito, Leo's Day and Night Pharmacy, J&M Karsant, and Bronco Don Holdings suits have appealed to the United States Court of Appeals for the Ninth Circuit Court the order entered on August 28, 2003, by the United States District Court for the Southern District of California granting the motions to dismiss filed by the defendants. These actions are stayed with respect to the Mirant entities that are defendants by the Chapter 11 proceedings of those entities, but are proceeding with respect to the other defendants.

The plaintiff in *Bustamante v. The McGraw-Hill Companies, Inc., et al.*, has dismissed the Mirant entities identified as defendants in the amended complaint filed in August 2003. The dismissal was in response to Mirant's filing a motion with the Bankruptcy Court seeking sanctions against the plaintiff for violation of the automatic stay by filing this claim after the initiation of the Mirant bankruptcy proceedings.

The plaintiffs in *Egger et al. v. Dynegy, Inc. et al.* filed an amended complaint in late October that did not include any Mirant entities as defendants due to the filing of the Mirant Chapter 11 proceedings and the resulting stay of litigation concerning pre-petition claims.

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California Receivables: In 2001, Southern California Edison ("SCE") and Pacific Gas and Electric ("PG&E") suspended payments to the California Power Exchange ("PX") and the California Independent System Operator ("CAISO") for certain power purchases, including purchases from Mirant. Both the PX and PG&E filed for bankruptcy protection in 2001. As of September 30, 2003, the Company has outstanding receivables for power sales made in California totaling \$367 million. The Company does not expect any payments to be received for these sales until the FERC issues final rulings in the proceeding described below regarding the amount of any refunds and amounts owed for sales made to the CAISO or the PX from October 2, 2000 through June 20, 2001.

In July 2001, the FERC issued an order requiring hearings to determine the amount of any refunds and amounts owed for sales made to the CAISO or the PX from October 2, 2000 through June 20, 2001. Various parties have appealed this FERC order to the United States Court of Appeals for the Ninth Circuit seeking review of a number of issues, including changing the potential refund date to include periods prior to October 2, 2000 and expanding the sales of electricity subject to potential refund to include sales made to the California Department of Water Resources ("DWR"). On December 12, 2002, an administrative law judge ("ALJ") determined the preliminary amounts currently owed to each supplier in the proceeding. The ALJ determined that the CAISO and the PX owed Mirant approximately \$122 million, which is net of refunds owed by Mirant to the CAISO and the PX. The ALJ decision indicated that these amounts do not reflect the final mitigated market clearing prices, interest that would be applied under the FERC's regulations, offsets for emission costs or the effect of certain findings made by the ALJ in the initial decision. A December 2002 errata issued by

44

the ALJ to his initial decision indicated that the amounts identified by the initial decision as being owed to Mirant and other sellers by the PX failed to reflect an adjustment for January 2001 that the ALJ concluded elsewhere in his initial decision should be applied. If that adjustment is applied, the amount owed Mirant by the PX, and the net amount owed Mirant by the CAISO and the PX after taking into account the proposed refunds, would increase by approximately \$37 million.

On March 26, 2003, the FERC largely adopted the findings of the ALJ made in his December 12, 2002 order with the exception that the FERC concluded the price of gas used in calculating the mitigated market prices used to determine refunds should not be based on published price indices. Instead, the FERC ruled that the price of gas should be based upon the price at the producing area plus transportation costs. This adjustment by the FERC to the refund methodology is expected to increase the refunds owed by Mirant and therefore to reduce the net amount that would remain owed to Mirant from the CAISO and PX after taking into account any refunds. Based solely on the staff's formula, the amount of the reduction could be as much as approximately \$110 million, which would reduce the net amount owed to Mirant by the CAISO and PX to approximately \$49 million. The FERC indicated that it would allow any generator that could demonstrate it actually paid a higher price for gas to recover the differential between that higher price and the proxy price for gas adopted by the FERC. Mirant has filed information with the FERC indicating that its actual cost of gas used to make spot sales of electricity was higher than the amounts calculated under the staff's formula, which, if accepted, would decrease significantly the \$110 million and increase the resulting net amount owed to Mirant, although the amount of such potential decrease and the resulting net amount owed to Mirant cannot be determined at this time. On October 16, 2003, the FERC issued an order addressing motions for rehearing filed with respect to its March 26, 2003 order, and in that October 16, 2003 order the FERC changed how certain power sales made to the CAISO were to be treated. Mirant estimates that the effect of the October 16, 2003 order will be to decrease the refunds owed by Mirant, and therefore to increase the net amounts owed to Mirant, by as much as \$27 million.

In the July 25, 2001 order, the FERC also ordered that a preliminary evidentiary proceeding be held to develop a factual record on whether there have been unjust and unreasonable charges for spot market bilateral sales in the Pacific Northwest from December 25, 2000 through June 20, 2001. In an order issued June 25, 2003, the FERC ruled that no refunds were owed and terminated the proceeding. On November 10, 2003, the FERC denied requests for rehearing filed by various parties. Various parties have appealed the FERC's decision to the United States Court of Appeals.

FERC Show Cause Proceeding Relating to Trading Practices: On June 25, 2003, the FERC issued a show cause order (the "Trading Practices Order") to more than fifty parties, including Mirant entities, that a FERC Staff report issued on March 26, 2003 indicated may have engaged in one or more trading strategies of the type employed by Enron Corporation and its affiliates ("Enron") and portrayed in the Enron memos released by the FERC in May 2002. The Trading Practices Order identifies certain specific trading practices that the FERC indicates could constitute gaming or anomalous market behavior in violation of the CAISO and PX tariffs. The order requires the CAISO to identify those transactions engaged in by the parties that are the subject of the order between January 1, 2000 and June 20, 2001 that potentially fall within the specified practices. Those parties, including the Mirant entities, will then have to demonstrate why those transactions were not violations of the PX and

45

CAISO tariffs. The FERC also stated that the parties could try to settle these issues with the FERC Trial Staff. If the FERC finds that the Mirant entities engaged in transactions that violated the PX or CAISO tariffs between January 1, 2000 through June 20, 2001 or the issue is resolved pursuant to settlement, the FERC could require the disgorgement of profits made on those transactions and could impose other non-monetary penalties. On September 30, 2003, the Company filed with the FERC a settlement agreement, dated September 25, 2003, entered into between the Company and the FERC Trial Staff, under which Mirant would pay \$332,411 to settle the show cause proceeding initiated by the FERC on June 25, 2003. That settlement is subject to the approval of the FERC and the Bankruptcy Court. In a November 14, 2003 order in a different proceeding, the FERC ruled that certain allegations of improper trading conduct with respect to the selling of ancillary services during 2000 should be resolved in the show cause proceeding. The proposed settlement entered into by the Company and the FERC Trial Staff did not resolve the allegations made against Mirant with respect to that particular practice. On December 19, 2003, a settlement was reached between Mirant and the FERC trial staff to settle all claims regarding sales of ancillary services. Both parties agreed that the FERC will have a total allowed prepetition claim against the estate of Mirant Americas Energy Marketing in the amount of approximately \$3.66 million. This settlement is subject to the approval of both the FERC and the Bankruptcy Court.

California Attorney General Litigation: On December 3, 2003, the United States District Court for the Northern District of California stayed the suit filed by the California Attorney General alleging violations of the Clayton Act and the California Unfair Competition Act during the pendency of the Company's bankruptcy proceedings.

DWR Power Purchases: On May 22, 2001, Mirant entered into a 19-month agreement with the DWR to provide the State of California with approximately 500 MW of electricity during peak hours through December 31, 2002. On February 25, 2002, the CPUC and the EOB filed separate complaints at the FERC against Mirant and other sellers of energy under long-term agreements with the DWR, alleging that the terms of these contracts are unjust and unreasonable and that the contracts should be abrogated or the prices under the contracts should be reduced. The complaints alleged that the prices the DWR was forced to pay pursuant to these long-term contracts were unreasonable due to dysfunctions in the California market and the alleged market power of the sellers. On June 26, 2003, the FERC issued an order dismissing the complaints filed by the CPUC and the EOB against Mirant. On November 10, 2003, the FERC denied motions for rehearing filed by the CPUC and the EOB. The CPUC and EOB have appealed the FERC's decision to the United States Court of Appeals for the Ninth Circuit.

Mirant Americas Generation Bondholder Suit

On June 10, 2003, certain holders of senior Mirant Americas Generation notes maturing after 2006 filed a complaint in the Court of Chancery of the State of Delaware, California Public Employees' Retirement System, et al. v. Mirant Corporation, et. al., that named as defendants Mirant, Mirant Americas, Inc., Mirant Americas Generation, certain past and present Mirant directors, and certain past and present Mirant Americas Generation managers. Among other claims, the plaintiffs challenge certain dividends and distributions made by Mirant Americas Generation. Plaintiffs seek damages in

excess of one billion dollars. Mirant has removed this suit to the United States District Court for the District of Delaware. This action is stayed as to Mirant and its subsidiaries by the filing of their Chapter 11 proceedings. On November 19, 2003, the Bankruptcy Court entered an order staying this action also with respect to the other defendants through at least April 2004 to avoid the suit impeding the ability of Mirant to reorganize or having a negative effect upon Mirant's assets. The committee representing unsecured creditors of Mirant Americas Generation, LLC filed a motion in Mirant's bankruptcy proceedings seeking to pursue claims against Mirant, Mirant Americas, Inc., certain past and present Mirant directors, and certain past and present Mirant Americas Generation managers similar to those asserted in this suit. The Bankruptcy Court has not authorized any such litigation at this time. The Bankruptcy Court has noted that while the committee had standing to assert claims on behalf of the estate of Mirant Americas Generation, LLC no such claims could be filed without the Bankruptcy Court's approval and no motions seeking such approval could be filed at least through April 2004.

Mirant Americas Generation Securities Class Action

This action is stayed as to Mirant Americas Generation, LLC by the filing of its Chapter 11 proceeding. On November 19, 2003, the Bankruptcy Court entered an order staying this action also with respect to the other defendants through at least April 2004 to avoid the suit impeding the ability of Mirant Americas Generation, LLC to reorganize or having a negative effect upon its assets.

Shareholder Litigation

This action is stayed as to Mirant by the filing of its Chapter 11 proceeding. On November 19, 2003, the Bankruptcy Court entered an order staying this action also with respect to the other defendants through at least April 2004 to avoid the suit impeding the ability of Mirant to reorganize or having a negative effect upon Mirant's assets.

Shareholder Derivative Litigation

Four purported shareholders' derivative suits have been filed against Mirant, its directors and certain officers, two of which were consolidated into a single suit. These lawsuits allege the directors breached their fiduciary duty by allowing the Company to engage in alleged unlawful or improper practices in the California energy markets in 2000 and 2001. These actions are stayed as to Mirant by the filing of its Chapter 11 proceeding. On November 19, 2003, the Bankruptcy Court entered an order staying these actions also with respect to the individual defendants through at least April 2004 to avoid the suit impeding the ability of Mirant to reorganize or having a negative effect upon Mirant's assets.

ERISA Litigation

On April 17, 2003, a purported class action lawsuit alleging violations of ERISA was filed in the United States District Court for the Northern District of Georgia entitled *James Brown v. Mirant Corporation, et al.*, (the "ERISA Litigation"). The ERISA Litigation names as defendants Mirant Corporation, certain of its current and former officers and directors, and Southern Company. The plaintiff, who seeks to represent a putative class of participants and beneficiaries of Mirant's 401(k)

47

plans (the "Plans"), alleges that defendants breached their duties under ERISA by, among other things, (1) concealing information from the Plans' participants and beneficiaries; (2) failing to ensure that the Plans' assets were invested prudently; (3) failing to monitor the Plans' fiduciaries; and (4) failing to engage independent fiduciaries to make judgments about the Plans' investments. The plaintiff seeks unspecified damages, injunctive relief, attorneys' fees and costs.

On June 3, 2003, a second purported class action lawsuit alleging violations of ERISA was filed in the United States District Court for the Northern District of Georgia entitled *Greg Waller, Sr. v. Mirant Corporation, et al.* The Waller suit names as defendants Mirant Corporation, certain of its current and former officers and directors, and Southern Company. The Waller suit is substantially similar to the previously filed Brown suit with respect to the claims asserted, the factual allegations made, and the relief sought. On September 2, 2003, the district court issued an order consolidating the Brown and Waller suits. On September 23, 2003, the plaintiffs filed an amended and consolidated complaint. The amended and consolidated complaint asserted similar factual allegations as the previously filed lawsuits.

United States Government Inquiries

In August 2002, Mirant received a notice from the Division of Enforcement of the Securities and Exchange Commission ("SEC") that it was conducting an investigation of Mirant. The Division of Enforcement has asked for information and documents relating to various topics such as accounting issues (including the issues announced on July 30, 2002 and August 14, 2002), energy trading matters (including round trip trades), Mirant's accounting for transactions involving special purpose entities, and information related to shareholder litigation. In late June 2003, the Division of Enforcement advised Mirant that its investigation of Mirant had become a formal investigation in February 2003. Mirant intends to continue to cooperate fully with the Securities and Exchange Commission.

In addition, the Company has been contacted by the United States Department of Justice regarding the Company's disclosure of accounting issues, energy trading matters and allegations contained in the amended complaint discussed above in *Shareholder Litigation* that Mirant improperly destroyed certain electronic records related to its activities in California. The Company has been asked to provide copies of the same documents requested by the SEC in their informal inquiry, and the Company intends to continue to cooperate fully. The Department of Justice has advised Mirant that it does not intend to take further action with respect to the allegations of improper destruction of electronic records.

In August 2002, the Commodity Futures Trading Commission ("CFTC") asked the Company for information about certain buy and sell transactions occurring during 2001. The Company provided information regarding such trades to the CFTC, none of which it considers to be wash trades. The CFTC subsequently requested additional information, including information about all trades conducted on the same day with the same counterparty that were potentially offsetting during the period from January 1, 1999 through June 17, 2002, which information the Company provided. In March 2003, the Company received a subpoena from the CFTC requesting a variety of documents and information related to the Company's trading of electricity and natural gas and its reporting of transactional information to energy industry publications that prepare price indices for electricity and natural gas in the period from January 1, 1999 through the date of the subpoena. Among the documents requested

48

were any documents previously produced to the FERC, the SEC, the Department of Justice, any state's Attorney General, and any federal or state grand jury. The Company has continued to receive additional requests for information from the CFTC, and it intends to continue to cooperate fully with the CFTC. In a submission to the United States District Court for the Southern District of Texas on July 16, 2003 in a proceeding not involving the Company, the CFTC identified Mirant as one of nineteen parties being investigated for potential inaccurate gas price reporting in violation of the Commodity Exchange Act. The filing made by the CFTC indicated that it had uncovered evidence showing that eighteen of the nineteen companies may have inaccurately reported gas prices to the trade publications. Mirant understands that it is one of those eighteen companies. During reviews in connection with the CFTC investigation, Mirant has become aware that some of its employees reported information to energy industry publications that may have been inaccurate. Mirant, however, is not aware that any of its employees participated in manipulation or attempted manipulation of energy price indices. Because this investigation is ongoing, Mirant cannot predict what the outcome will be.

On August 21, 2003, the Company received a notice from the Department of Labor (the "DOL") that it was commencing an investigation pursuant to which it was undertaking to review various documents and records relating to the Mirant Services Employee Savings Plan and the Mirant Services Bargaining Unit Employee Savings Plan. The Company is in the process of responding to the DOL's information request and intends to cooperate fully with the DOL.

Power Purchase Agreements

In connection with Mirant's acquisition of the Mirant Mid-Atlantic assets from PEPCO in 2000, PEPCO granted Mirant certain rights to purchase from PEPCO all power it received under long term power purchase agreements with Ohio Edison Company and Panda-Brandywine L.P. ("Panda") that expire respectfully in 2005 and 2021. Mirant and PEPCO entered into a contractual arrangement (the "Back-to-Back Agreement") with respect to the Panda PPA (the "Panda PPA") under which (1) PEPCO agreed to resell to Mirant all "capacity, energy, ancillary services and other benefits" to which it is entitled from Panda under the Panda PPA; (2) Mirant agreed to pay PEPCO each month all amounts due from PEPCO to Panda for the immediately preceding month associated with such capacity, energy, ancillary services and other benefits; and (3) PEPCO irrevocably and unconditionally appointed Mirant to deal directly with Panda with respect to all matters arising under the Panda PPA. The parties also agreed that the price paid by Mirant for its December 2000 acquisition of PEPCO assets would be adjusted if by March 19, 2005 a binding court order has been entered finding that the Back-to-Back Agreement violates the Panda PPA as a prohibited assignment, transfer or delegation of the Panda PPA or because it effects a prohibited delegation or transfer of rights, duties or obligations under the Panda PPA that is not severable from the rest of the Back-to-Back Agreement. If a court order is entered that invalidates the entire Back-to-Back Agreement, the parties will negotiate in good faith an adjustment so as to compensate PEPCO for the termination of the benefit of the Back-to-Back Agreement while also holding Mirant economically indifferent from such court order. Panda initiated legal proceedings in 2000 asserting that the Back-to-Back Agreement violated provisions in the Panda PPA prohibiting PEPCO from assigning the Panda PPA or delegating its duties under the Panda PPA to a third party without Panda's prior written consent. On June 10, 2003, the Maryland Court of Appeals, Maryland's highest court, ruled that the assignment of certain rights and delegation of certain duties by

PEPCO to Mirant did violate the non-assignment provision of the Panda PPA and was unenforceable. The court, however, left open the issues whether the provisions found to violate the Panda PPA could be severed and the rest of the Back-to-Back Agreement enforced and whether Panda's refusal to consent to the assignment of the Panda PPA by PEPCO to Mirant was unreasonable and violated the Panda PPA. If the June 10, 2003 decision by the Maryland Court of Appeals or a subsequent decision invalidates the Back-to-Back Agreement, any adjustment made by the parties as a result of that decision would not be expected to have a material adverse effect on the Company's financial position or results of operations.

As discussed above under Note A *Proceedings under Chapter 11 of the Bankruptcy Code*, on August 28, 2003, Mirant filed a motion with the Bankruptcy Court to reject the Back-to-Back Agreement and to enjoin FERC from compelling Mirant to perform thereunder. On August 28, 2003, the Bankruptcy Court entered a temporary restraining order (the "TRO") against PEPCO and FERC. On September 8, 2003, the Office of the People's Counsel for the District of Columbia filed a complaint with the FERC seeking an order holding that the terms of the Back-to-Back Agreement between Mirant and PEPCO may not be modified or terminated without the approval of the FERC. Also on September 8, 2003, the Public Service Commission of Maryland and the Maryland Office of People's Counsel filed a petition with the FERC seeking an order declaring that Mirant must continue to perform pursuant to the Back-to-Back Agreement with PEPCO. On September 17, 2003, the Bankruptcy Court entered an order extending the TRO and enjoining the FERC from issuing the orders requested by such pleadings. On September 25, 2003, the Bankruptcy Court converted the TRO to a preliminary injunction. The FERC and PEPCO are in the process of challenging the Bankruptcy Court's preliminary injunction. On October 9, 2003, the United States District Court for the Northern District of Texas entered an order that had the effect of transferring to that court from the bankruptcy court the motion filed by Mirant seeking to reject the Back-to-Back Agreement and the proceedings in which the bankruptcy court had issued the preliminary injunction against the FERC.

Environmental Liabilities

In 2000, the State of New York issued a notice of violation to the previous owner of Mirant New York's Lovett facility concerning the air permitting and air emission control implications under the Environmental Protection Agency's new source review regulations promulgated under the Clean Air Act ("NSR") of the operation of that plant prior to its acquisition by Mirant New York. On June 11, 2003, Mirant New York and the State of New York entered into, and filed for approval with the United States District Court for the Southern District of New York, a consent decree that releases Mirant New York from all potential liability for matters addressed in the notice of violation previously issued by the state to Orange and Rockland Utilities, Inc. and for any other potential violation of NSR or related New York air laws prior to and through the date of entry of the consent decree by the court. Under the decree, Mirant New York commits to install on Lovett's two coal-fired units by 2007 to 2008 emission control technology consisting of selective catalytic reduction technology to reduce nitrogen oxide emissions, alkaline in-duct injection technology to reduce sulfur dioxide emissions, and a baghouse. The cost of the emission controls prescribed by the consent decree could exceed \$100 million over the approximately five year period covered by the consent decree. Such costs would generally be capitalized and amortized as a component of property, plant and equipment. The consent decree allows

Mirant New York to shut down a unit rather than install the prescribed emission controls on the unit. For one of the units, Mirant New York also has the option to convert the unit to operate exclusively as a gas-fired boiler and limit the hours of operation rather than install the prescribed emission controls. Mirant New York also agreed, beginning 2009, to retire annually 1,954 tons of sulfur dioxide emission allowances allocated to the Lovett facility under the Clean Air Act Acid Rain Program, which allowances will no longer be needed by Mirant New York for compliance as a result of the sulfur dioxide emission reductions caused by the other actions required by the consent decree. Mirant New York did not admit to any liability, and the consent decree does not impose any penalty on Mirant New York for alleged past violations. The district court approved and entered the consent decree on October 9, 2003, and it was approved by the Bankruptcy Court on October 15, 2003.

On September 10, 2003, the Virginia Department of Environmental Quality issued a Notice of Violation ("NOV") to Mirant Potomac River, LLC ("Mirant Potomac") alleging that it violated its Virginia Stationary Source Permit to Operate by emitting nitrogen oxide in excess of the "cap" established by the permit for the 2003 summer ozone season. Mirant Potomac has responded to the NOV, asserting that the cap is unenforceable, that it can comply through the purchase of emissions credits and raising other equitable defenses. Virginia's civil enforcement statute provides for injunctive relief and penalties, but no civil suit has as yet been filed.

New York Tax Matter

Mirant's subsidiaries that own generating plants in New York are the petitioners in forty-one proceedings ("Tax Certiorari Proceedings") initially brought in various New York state courts challenging the assessed value of those generating plants determined by their respective local taxing authorities. Mirant Bowline Energy, LLC ("Mirant Bowline") is the petitioner in proceedings against the Town of Haverstraw, New York (the "Town") and the Haverstraw Stony Point School District (the "School District") that challenge the assessed value of the Bowline generating facility and the resulting local tax assessments paid for tax years 1995 through 2002. Mirant Bowline succeeded to rights held by Orange & Rockland Utilities, Inc. for the tax years prior to its acquisition of the Bowline Plant in 1999 under the Purchase Agreement with Orange & Rockland. Mirant Lovett, LLC ("Mirant Lovett") has initiated proceedings challenging the assessed value of the Lovett facility for each of the years 2000 through 2003. Mirant NY-Gen, LLC ("Mirant NY-Gen" and collectively with Mirant Bowline and Mirant Lovett, the "New York Debtors") has proceedings pending with respect to the combustion turbine and hydroelectric facilities it owns for each of the years 2000 through 2003. If the Tax Certiorari Proceedings result in a reduction of the assessed value of the generating facility at issue in each proceeding, the Mirant entity owning the facility would be entitled to a refund with interest of any excess taxes paid for those tax years. Following the initiation of the bankruptcy proceedings, the New York Debtors removed the Tax Certiorari Proceedings to the United States District Court for the Southern District of New York, which referred the cases to the United States Bankruptcy Court for the Southern District of New York ("New York Bankruptcy Court"). The New York Debtors filed motions pursuant to 42 U.S.C. § 1412 and Rule 7087 of the Federal Rules of Bankruptcy Procedure for a transfer of venue of the Tax Certiorari Proceedings to the Bankruptcy Court. Certain of the taxing authorities involved in the Tax Certiorari Proceedings objected to the transfer motions and have filed motions to have the New York Bankruptcy Court abstain and/or remand the Tax Certiorari Proceedings

to their originating state courts. On December 4, 2003, the New York Bankruptcy Court issued a ruling remanding the Tax Certiorari Proceedings to the New York state courts in which they were originally filed.

On September 30, 2003, the Mirant Debtors filed a motion (the "Tax Determination Motion") with the Bankruptcy Court requesting that it determine what the property tax liability should have been for the Bowline generating facility in each of the years 1995 through 2003. The Tax Determination Motion similarly sought to have the Bankruptcy Court determine what the property tax liability should have been for (a) the generating facility acquired by Mirant Lovett concurrently with Mirant Bowline's acquisition of the Bowline Facility in each of the years 2000 through 2003, and (b) certain generating facilities concurrently acquired by Mirant NY-Gen at the time Mirant Bowline acquired the Bowline

facility in each of the years 2000 through 2003. The bases for the relief requested in the Tax Determination Motion on behalf of each of the New York Debtors were that the assessed values of generating facilities located in New York made by the relevant taxing authorities had no justifiable basis and were (and are) far in excess of their actual value. The local taxing authorities have opposed the Tax Determination Motion, arguing that the Bankruptcy Court either lacks jurisdiction over the matters addressed by the Tax Determination Motion or should abstain from addressing those issues so that they can be addressed by the state courts in which the Tax Certiorari Proceedings described in the preceding paragraph were originally filed. On December 10, 2003, the Bankruptcy Court ruled that it would retain joint jurisdiction with the New York state courts over the issues raised by the Tax Certiorari Proceedings and the Tax Determination Motion. The ruling further indicated that for any of the Tax Certiorari Proceedings in which a trial on the merits had not commenced in the New York state court before which that proceeding was pending by August 1, 2004, the Bankruptcy Court would stay that state court proceeding and address itself the tax matters at issue in that proceeding.

Collectively, the New York Debtors have currently elected not to pay approximately \$50 million assessed by local taxing authorities on the generating facilities for 2003 which fell due on September 30, 2003 in order to preserve their respective rights to offset the overpayments of taxes made in earlier years against the sums payable on account of current taxes. The failure to pay the taxes due on September 30, 2003 could subject the New York Debtors to additional penalties and interest. In the Tax Determination Motion, the Mirant Debtors requested that the Bankruptcy Court permit each of the New York Debtors to apply any previous tax overpayments made on account of their generating facilities as determined by the Bankruptcy Court as requested in the Tax Determination Motion to any post-petition tax liabilities owing to the relevant local taxing authority for current tax liabilities and be entitled to a refund of any remaining overpayments. The Tax Determination Motion also requests the Bankruptcy Court to rule that any interest or penalties that may otherwise be imposed on the New York Debtors by the relevant taxing authorities for failure to timely pay taxes be disallowed or determined to be zero. The various taxing authorities may seek to lift the bankruptcy stay (which arises automatically upon the filing of a bankruptcy petition and prevents creditors exercising remedies against a debtor) such that they may seek to foreclose their liens against the various generating facilities due to the failure of the applicable entities to pay their current property taxes. If the Bankruptcy Court grants the Tax Determination Motion, even in part, it is likely that such a motion to lift the stay would be denied as being inconsistent with the decision on the Tax Determination Motion. In the event that the motion to lift the stay were granted, each of the New York Debtors has the

option to pay the unpaid taxes it owes and avoid the result of facing foreclosure of tax liens against its generating facilities.

Other Legal Matters

In addition to the legal matters discussed above, the Company is involved in various other claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company's financial position, results of operations or cash flows.

K. Commitments and Contingencies

Contractual Obligations

Turbine Purchases, Long-Term Service Agreements and Other Construction-Related Commitments

Mirant has entered into commitments to purchase turbine equipment, both directly from the vendor and through one equipment procurement facility. The remaining aggregate commitments relating to turbine purchase commitments at September 30, 2003 was \$2 million. Mirant no longer intends to purchase any turbines through the equipment procurement facility.

As of September 30, 2003, the total estimated commitments for long-term service agreements associated with turbines installed or in storage were approximately \$711 million. These commitments are payable over the term of the respective agreements, which range from ten to twenty years. Some of these agreements have terms that allow for cancellation of the contract at mid-term. If the Company were to cancel these contracts at mid-term, the estimated commitments for the remaining long-term service agreements would be reduced to approximately \$568 million. Estimates for future commitments for the long-term service agreements are based on the stated payment terms in the contracts at the time of execution. These payments are subject to an annual inflationary adjustment.

As a result of the turbine cancellations during the nine months ended September 30, 2003, the long-term service agreements associated with the canceled turbines have been canceled. Generally, if the associated turbine is canceled prior to delivery, then these agreements may be terminated at little or no cost.

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The Company has other construction-related commitments related to developments at its various generation facility sites. At September 30, 2003, these construction-related commitments totaled approximately \$303 million. Although the Company intends to complete these construction-related activities, generally these commitments may be terminated by the Company. At September 30, 2003, the estimated cost to terminate these commitments was approximately \$28 million.

Operating Leases

In connection with the purchase of the PEPCO assets, Mirant Mid-Atlantic leased the Morgantown and the Dickerson base load units and associated property for terms of 33.75 and 28.5 years, respectively. As of September 30, 2003, the total notional minimum lease payments for the remaining life of the leases was approximately \$2.6 billion. Rent expenses associated with the Morgantown and

53

Dickerson operating leases totaled approximately \$24 million and \$72 million for each of the three and nine months ended September 30, 2003 and 2002, respectively.

Although Mirant Mid-Atlantic has historically accounted for these leases as operating leases, due to the Chapter 11 filings, the appropriate characterization of Mirant Mid-Atlantic's obligations thereunder is subject to a determination by the Bankruptcy Court. The Company cannot currently determine the effect of a recharacterization of these obligations by the Bankruptcy Court.

Mirant has commitments under other operating leases with various terms and expiration dates. Minimum lease payments under non-cancelable operating leases approximate \$390 million as of September 30, 2003. Expenses associated with these commitments totaled approximately \$9 million during each of the three months ended September 30, 2003 and 2002, and approximately \$28 million and \$24 million during the nine months ended September 30, 2003 and 2002, respectively.

Fuel Commitments

Mirant had a contract with BP whereby BP was obligated to deliver fixed quantities of natural gas at identified delivery points. The negotiated purchase price of delivered gas was generally equal to the monthly spot rate then prevailing at each delivery point. Because this contract was based on the monthly spot price at the time of delivery, Mirant had the ability to sell the gas at the same spot price, thereby offsetting the full amount of its commitment related to this contract. Based on current contract volumes, the estimated minimum commitment for the term of this agreement based on current spot prices was \$2.8 billion as of June 30, 2003. Effective July 1, 2003, this contract was terminated. During the three months ended September 30, 2003, Mirant paid \$2 million to BP to terminate the agreement.

54

In April 2002, Mirant Mid-Atlantic entered into a long-term fuel purchase agreement. The fuel supplier converts coal feedstock received at the Company's Morgantown facility into a synthetic fuel. Under the terms of the agreement, Mirant Mid-Atlantic is required to purchase a minimum of 2.4 million tons of fuel per annum through December 2007. Minimum purchase commitments became effective upon the commencement of the synthetic fuel plant operation at the Morgantown facility in July 2002. The purchase price of the fuel varies with the delivered cost of the coal feedstock. Based on current coal prices, it is expected that as of September 30, 2003, total estimated minimum commitments under this agreement were \$399 million.

In addition to the coal commitment described above, Mirant has fixed volumetric purchase commitments under fuel purchase and transportation agreements, which are in effect through 2012, totaling \$326 million at September 30, 2003. Approximately \$219 million of these commitments relates to an arrangement between Mirant Americas Energy Marketing and the synthetic fuel supplier whereby the synthetic fuel supplier is required to purchase coal directly from the coal supplier. Mirant Americas Energy Marketing's minimum coal purchase commitments are reduced to the extent that the synthetic fuel supplier purchases coal under this arrangement. Since the inception of this arrangement, the synthetic fuel supplier has purchased 100% of Mirant Americas Energy Marketing's minimum coal purchase commitment thereby reducing the amount of coal required to be purchased under the contracts with the coal supplier.

Labor Union Agreements

In June 2003, Mirant and International Brotherhood of Electrical Workers Union 503 in New York entered into a new labor agreement that is effective from June 1, 2003 until June 1, 2008.

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In August 2003, Mirant unilaterally implemented the "Terms and Conditions of Employment" that reflect a final proposed labor agreement with power plant employees represented by Local Union 1900, I.B.E.W. at its Mirant Mid-Atlantic plants in Washington D.C., Maryland, and Virginia. There is a risk that there will be a strike or some other form of adverse collective action by the union. If a strike does occur, there is a risk that such action could disrupt the ability of these plants to produce energy.

Mirant is currently negotiating a new labor agreement with the Utility Workers Union of America local 369, who represent Mirant's employees at its Kendall operating plant located in Cambridge, Massachusetts.

Mirant has successfully negotiated a new labor agreement with the United Steelworkers of America for its Sugar Creek generating facility in Indiana and its Zeeland generating facility in Michigan. The Agreement was ratified December 5, 2003 and is currently awaiting final execution.

L. Power Purchase Agreements, Transition Power Agreements and Other Obligations

Under the asset purchase and sale agreement for the PEPCO generating assets, Mirant assumed and recorded net obligations of approximately \$2.4 billion representing the estimated fair value (at the date of acquisition) of out-of-market energy delivery and power purchase agreements ("PPAs"), which consist of five PPAs and two TPAs. The estimated fair value of the contracts was derived using forward

55

prices obtained from brokers and other external sources in the market place including brokers and trading platforms/exchanges such as NYMEX and estimated load information.

The PPAs, which are with parties unrelated to PEPCO, are for a total capacity of 735 MW and expire over periods through 2021. Upon adoption of SFAS No. 133 on January 1, 2001, each PPA contract was evaluated to determine whether it met the definition of a derivative contract under the standard. PPAs determined to be derivative instruments are recorded on the balance sheet at fair value, with changes in fair value recorded currently in earnings. The Company recognized \$32 million of unrealized gains and \$11 million of unrealized losses during the three months ended September 30, 2003 and 2002, respectively, and \$80 million of unrealized gains and \$19 million of unrealized losses during the nine months ended September 30, 2003 and 2002, respectively, in connection with the PPAs. As discussed in Note A "Proceedings under Chapter 11 of the Bankruptcy Code," on August 28, 2003, Mirant filed a motion with the Bankruptcy Court to reject the Back-to-Back Agreement related to the PPAs. At September 30, 2003, the estimated commitments under the PPA agreements were \$1.3 billion based on the total remaining MW commitment at contractual prices. As of September 30, 2003, the fair value of the PPAs recorded in liabilities subject to compromise in the unaudited condensed consolidated balance sheet totaled \$800 million, of which \$142 million would have been classified as current.

The TPAs state that Mirant will sell a quantity of MWhs over the life of the contracts based on PEPCO's load requirements. The TPA related to load in Maryland expires in June 2004, while the TPA related to load in the District of Columbia expires in January 2005. The proportion of MWhs supplied under the two agreements is currently 65% and 35%, respectively. As actual MWhs are purchased or sold under these agreements, Mirant amortizes a ratable portion of the obligation as an increase in revenues. The Company recorded, as an adjustment of revenues, amortization of the TPA obligation of approximately \$118 million and \$120 million during the three months ended September 30, 2003 and 2002, respectively, and \$335 million and \$320 million during the nine months ended September 30, 2003 and 2002, respectively. The remaining TPA obligation will be amortized as an increase in revenue through January 2005. As of September 30, 2003, the remaining obligations for the TPAs recorded in transition power agreements and other obligations totaled \$548 million, of which \$462 million is classified as current.

On October 24, 2003, Mirant and PEPCO reached a settlement, subject to Bankruptcy Court approval, whereby, the contracted prices for power delivered under the TPAs were increased by \$6.40 per MWh and the TPAs were assumed. In addition, the agreement grants an allowed pre-petition general unsecured claim related to the amendment of these agreements in the amount of \$105 million. On November 19, 2003, the Bankruptcy Court approved the settlement and assumption of the amended TPAs.

Other obligations of approximately \$57 million, which are related primarily to out-of-market gas transportation and power sales agreements, are also recorded in transition power agreements and other obligations in the unaudited condensed consolidated balance sheet at September 30, 2003.

56

M. Earnings (Loss) Per Share

Mirant calculates basic earnings (loss) per share by dividing the income (loss) available to common shareholders by the weighted average number of common shares outstanding. Diluted earnings (loss) per share gives effect to dilutive potential common shares, including stock options, convertible notes and debentures and convertible trust preferred securities. The following table shows the computation of basic and diluted earnings (loss) per share for the three months ended September 30, 2003 and 2002 and for the nine months ended September 30, 2003 and 2002 (in millions, except per share data).

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
		(Restated)		(Restated)
Loss from continuing operations	\$ (35)	\$ (8)	\$ (2,215)	\$ (205)
Discontinued operations	2	(33)	(20)	(28)
Cumulative effect of change in accounting principle			(28)	
Net loss	\$ (33)	\$ (41)	\$ (2,263)	\$ (233)
Basic:				
Weighted average shares outstanding	405.5	402.3	404.8	401.8
Earnings (loss) per share from:				
Continuing operations	\$ (0.08)	\$ (0.02)	\$ (5.47)	\$ (0.51)
Discontinued operations		(0.08)	(0.05)	(0.07)
Cumulative effect of change in accounting principle			(0.07)	
Net loss	\$ (0.08)	\$ (0.10)	\$ (5.59)	\$ (0.58)
Diluted:				
Net loss	\$ (33)	\$ (41)	\$ (2,263)	\$ (233)
Weighted average shares outstanding	405.5	402.3	404.8	401.8
Shares due to assumed exercise of stock options and equivalents				
Adjusted shares	405.5	402.3	404.8	401.8
Earnings (loss) per share from:				
Continuing operations	\$ (0.08)	\$ (0.02)	\$ (5.47)	\$ (0.51)
Discontinued operations		(0.08)	(0.05)	(0.07)
Cumulative effect of change in accounting principle			(0.07)	
Net loss	\$ (0.08)	\$ (0.10)	\$ (5.59)	\$ (0.58)

The following potential common shares were excluded from the earnings per share calculations (in millions):

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	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
Out-of-the-money options	23.6	21.4	18.0	20.6
Shares issuable upon conversion of convertible debt	59.8	48.0	59.8	16.4
Shares issuable upon conversion of convertible trust preferred securities	12.5	12.5	12.5	12.5
Total	95.9	81.9	90.3	49.5

N. Segment Reporting

The Company has two reportable segments: North America and International. The North America segment consists of the Company's interrelated power generation and commodity trading operations in the United States and Canada. The International segment includes power generation in the Philippines and generation, transmission and distribution operations in the Caribbean, including Jamaica, the Bahamas, Curacao and Trinidad. The Company's reportable segments are strategic businesses that are

58

geographically separated and managed separately. Certain corporate costs, including corporate overhead and interest, are not allocated to a reporting segment.

**Financial Data by Segment
(In Millions)**

Three Months Ended September 30, 2003:

	North America	International	Corporate and Eliminations	Consolidated
Operating Revenues by Product and Service:				
Generation	\$ 1,348	\$ 129	\$	\$ 1,477
Integrated utilities and distribution		134		134
Net trading revenue				
Total operating revenues	1,348	263		1,611
Cost of fuel, electricity and other products	932	72		1,004
Gross Margin	416	191		607
Operating Expenses:				
Operations and maintenance	171	71	22	264
Depreciation and amortization	54	30	6	90
Impairment losses and restructuring credits	(2)			(2)
Gain on sales of assets, net	(13)		(10)	(23)
Total operating expenses	210	101	18	329
Operating Income (Loss)	206	90	(18)	278
Other expense, net	93	35	30	158

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	North America	International	Corporate and Eliminations	Consolidated
Income (Loss) From Continuing Operations Before Reorganization Items and Income Taxes	\$ 113	\$ 55	\$ (48)	120
Reorganization items, net				182
Benefit for income taxes				(27)
Loss From Continuing Operations				\$ (35)
Total assets	\$ 11,522	\$ 4,423	\$ (1,787)	\$ 14,158

59

Nine Months Ended September 30, 2003:

	North America	International	Corporate and Eliminations	Consolidated
Operating Revenues by Product and Service:				
Generation	\$ 3,545	\$ 383	\$	\$ 3,928
Integrated utilities and distribution		390		390
Net trading revenue	39			39
Total operating revenues	3,584	773		4,357
Cost of fuel, electricity and other products	2,557	210		2,767
Gross Margin	1,027	563		1,590
Operating Expenses:				
Operations and maintenance	579	190	113	882
Depreciation and amortization	158	90	18	266
Impairment losses and restructuring charges	2,073	8	5	2,086
Gain on sales of assets, net	(38)	(1)	(10)	(49)
Total operating expenses	2,772	287	126	3,185
Operating (Loss) Income	(1,745)	276	(126)	(1,595)
Other expense, net	204	77	152	433
(Loss) Income From Continuing Operations Before Reorganization Items and Income Taxes	\$ (1,949)	\$ 199	\$ (278)	(2,028)
Reorganization items, net				182
Provision for income taxes				5
Loss From Continuing Operations				\$ (2,215)
Total assets	\$ 11,522	\$ 4,423	\$ (1,787)	\$ 14,158

60

Three Months Ended September 30, 2002 (As Restated):

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	<u>North America</u>	<u>International</u>	<u>Corporate and Eliminations</u>	<u>Consolidated</u>
Operating Revenues by Product and Service:				
Generation	\$ 1,116	\$ 131	\$	\$ 1,247
Integrated utilities and distribution		128		128
Net trading loss	(7)	2		(5)
Total operating revenues	1,109	261		1,370
Cost of fuel, electricity and other products	662	64		726
Gross Margin	447	197		644
Operating Expenses:				
Operations and maintenance	200	91	25	316
Depreciation and amortization	40	28	5	73
Impairment losses and restructuring charges	48	122	(3)	167
Gain on sales of assets, net		(4)		(4)
Total operating expenses	288	237	27	552
Operating Income (Loss)	159	(40)	(27)	92
Other expense, net	43	21	54	118
Income (Loss) From Continuing Operations Before Income Taxes	\$ 116	\$ (61)	\$ (81)	(26)
Benefit for income taxes				(18)
Loss From Continuing Operations				\$ (8)

61

Three Months Ended September 30, 2002 (As Previously Reported):

	<u>North America</u>	<u>International</u>	<u>Corporate and Eliminations</u>	<u>Consolidated</u>
Operating Revenues by Product and Service:				
Generation	\$ 1,997	\$ 133	\$	\$ 2,130
Integrated utilities and distribution	128			128
Total operating revenues	2,125	133		2,258
Cost of fuel, electricity and other products	1,470	3		1,473