

MIRANT CORP  
Form 425  
September 08, 2010

Filed by Mirant Corporation

Pursuant to Rule 425 under the Securities Act of 1933

and deemed filed pursuant to Rule 14a-12

of the Securities Exchange Act of 1934, as amended

Subject Company: Mirant Corporation

(Commission File No. 001-16107)

**In connection with the proposed merger of Mirant Corporation and RRI Energy, Inc. (the combined company will be renamed GenOn Energy, Inc. ( GenOn ) following the completion of the merger), the parties currently plan to commence syndication of a new senior secured term loan and revolving credit facility of GenOn (the credit facilities ) and an offering of notes in a private placement. The information provided below is disclosed in a preliminary information memorandum that is being furnished to potential lenders in connection with the syndication of the credit facilities and a preliminary offering memorandum that is currently expected to be furnished to investors in the private placement.**

**Glossary of Certain Defined Terms**

**CAISO** California Independent System Operator.

**CPUC** California Public Utilities Commission.

**Clean Air Act** Federal Clean Air Act.

**EBITDA** Earnings before interest, taxes, depreciation and amortization.

**GAAP** United States generally accepted accounting principles.

**GenOn** GenOn Energy, Inc.

**Gross Margin** Operating revenue less cost of fuel, electricity and other products, excluding depreciation and amortization.

**IBEW** International Brotherhood of Electrical Workers.

**ISO** Independent System Operator.

**ISONE** Independent System Operator-New England.

**kW** Kilowatt.

**MDE** Maryland Department of the Environment.

**Merger Agreement** The agreement and plan of merger into which Mirant Corporation entered with RRI Energy, Inc. and RRI Energy Holdings, Inc. on April 11, 2010.

**Mirant** Mirant Corporation and, except where the context indicates otherwise, its subsidiaries.

**Mirant Chalk Point** Mirant Chalk Point, LLC.

**Mirant Marsh Landing** Mirant Marsh Landing, LLC.

**Mirant Mid-Atlantic** Mirant Mid-Atlantic, LLC and, except where the context indicates otherwise, its subsidiaries.

**MISO** Midwest Independent Transmission System Operator

**MW** Megawatt.

**NYISO** New York Independent System Operator

**PG&E** Pacific Gas & Electric Company.

**PJM** PJM Interconnection, LLC.

**RRI** RRI Energy, Inc.

**RTO** Regional Transmission Organization.

**SEC** United States Securities and Exchange Commission.

In this exhibit, unless the context otherwise requires, (i) we, us, our and the combined company refer collectively to GenOn Energy, Inc. and its subsidiaries (including RRI and Mirant and its subsidiaries) after the completion of the transactions, including the merger, (ii) RRI refers to RRI Energy, Inc. and its subsidiaries and (iii) Mirant refers to Mirant Corporation and its subsidiaries.

### Mirant's Capacity and Power Purchase Agreement Revenues

At June 30, 2010, Mirant had total capacity and power purchase agreement revenues fixed for 2010 to 2013 of \$1.5 billion.

### Ratio of Earnings to Fixed Charges (Unaudited)

(In Millions, except ratio amounts)	Years Ended December 31,					Six Months Ended June 30,		Twelve Months Ended June 30,
	2005 <sup>(2)</sup>	2006	2007	2008	2009	2009	2010	2010
<b>Fixed charges:</b>								
Interest expense <sup>(1)</sup>	\$ 1,404	\$ 289	\$ 247	\$ 189	\$ 138	\$ 72	\$ 99	\$ 165
Interest capitalized		9	25	48	72	33	3	42
Interest within rental expense	44	44	44	44	44	22	22	44
<b>Total fixed charges</b>	<b>\$ 1,448</b>	<b>\$ 342</b>	<b>\$ 316</b>	<b>\$ 281</b>	<b>\$ 254</b>	<b>\$ 127</b>	<b>\$ 124</b>	<b>\$ 251</b>
<b>Earnings from continuing operations:</b>								
Income (loss) from continuing operations before reorganization items, net and income taxes	\$ (1,421)	\$ 1,038	\$ 440	\$ 1,217	\$ 506	\$ 551	\$ 145	\$ 100
<b>Plus:</b>								
Fixed charges from above	1,448	342	316	281	254	127	124	251
Amortization of interest capitalized			1	1	3	1	3	5
<b>Less:</b>								
Interest capitalized		(9)	(25)	(48)	(72)	(33)	(3)	(42)
<b>Total earnings</b>	<b>\$ 27</b>	<b>\$ 1,371</b>	<b>\$ 732</b>	<b>\$ 1,451</b>	<b>\$ 691</b>	<b>\$ 646</b>	<b>\$ 269</b>	<b>\$ 314</b>
<b>Ratio of earnings from continuing operations to fixed charges</b>		<b>4.01</b>	<b>2.32</b>	<b>5.16</b>	<b>2.72</b>	<b>5.09</b>	<b>2.17</b>	<b>1.25</b>

<sup>(1)</sup> Includes amortization of discounts, premiums and debt issuance costs.

<sup>(2)</sup> For 2005, our earnings were insufficient to cover our fixed charges by \$1,421 million.

### Summary Unaudited Pro Forma Condensed Combined Consolidated Financial Data (Unaudited)

Under GAAP, Mirant will be treated as the acquirer for accounting purposes and the merger will be accounted for under the acquisition method of accounting as a purchase by Mirant of RRI.

The following table sets forth summary unaudited pro forma condensed combined consolidated financial data of Mirant. The pro forma information has been derived from, and should be read in conjunction with, the Unaudited pro forma condensed combined consolidated financial statements and related notes, which are included in the Form S-4 filed by RRI with the SEC on May 28, 2010, as amended on July 6, 2010 and August 12, 2010 and as may be amended from time to time, and give pro forma effect to the transactions.

The following summary unaudited pro forma condensed combined consolidated statements of operations data of Mirant for the six months ended June 30, 2009 and 2010, the year ended December 31, 2009 and for the twelve months ended June 30, 2010, have been prepared to give effect to the transactions as if the transactions had been completed on January 1, 2009. The unaudited pro forma condensed combined consolidated balance sheet data at June 30, 2010, of Mirant has been prepared to give effect to the transactions as if the transactions had been completed on June 30, 2010. The pro forma financial information presented herein for the twelve months, or LTM, period ended June 30, 2010 has been obtained by subtracting the pro forma data for the six months ended June 30, 2009 from the pro forma data for the year ended December 31, 2009 and then adding the pro forma data for the six months ended June 30, 2010. The merger will be accounted for as a reverse acquisition of RRI by Mirant under the acquisition method of accounting of GAAP.

The pro forma adjustments related to the transactions are preliminary and based upon information obtained to date and assumptions that we think are reasonable. The actual adjustments will be made as of the closing date of the transactions and may differ from those reflected in the summary unaudited pro forma condensed combined consolidated financial data presented below. Such differences may be material.

The summary unaudited pro forma condensed combined consolidated financial information is provided for illustrative purposes only and does not purport to represent what the actual consolidated results of operations or the consolidated financial position of Mirant would have been had the transactions occurred on the dates assumed, nor are they necessarily indicative of future consolidated results of operations or consolidated financial position. Future results may vary significantly from the results reflected because of various factors, including those discussed in the section entitled Risk factors.

	Pro forma year ended December 31, 2009	Pro forma six months ended June 30, 2009	Pro forma six months ended June 30, 2010	Pro forma twelve months ended June 30, 2010
<b>(Dollars in millions)</b>				
<b>Statements of operations data:</b>				
Operating revenues	\$ 4,111	\$ 2,218	\$ 2,117	\$ 4,010
Gross margin (excluding depreciation and amortization)	2,290	1,199	1,122	2,213
Depreciation and amortization	(330)	(163)	(199)	(366)
Total operating expenses	(1,952)	(761)	(1,148)	(2,339)
Operating income (loss)	338	438	(26)	(126)
Income (loss) from continuing operations	(42)	253	(233)	(528)
<b>Balance sheet data (at period end):</b>				
Cash and cash equivalents <sup>(a)</sup>			\$ 2,489	
Working capital			2,554	
Total assets			14,490	
Total debt <sup>(b)</sup>			4,568	
Total net debt <sup>(c)</sup>			2,079	
Total stockholders' equity			6,422	
<b>Other financial data:</b>				
Capital expenditures	\$ (866)	\$ (493)	\$ (210)	\$ (583)
EBITDA <sup>(d)</sup>	661	600	174	235
Adjusted EBITDA <sup>(d)</sup>	931	350	335	916
Cash paid for interest <sup>(e)</sup>	268	129	137	276
Ratio of earnings to fixed charges <sup>(f)</sup>		1.78		
Ratio of Adjusted EBITDA to cash paid for interest	3.47	2.71	2.45	3.32
Ratio of total net debt to Adjusted EBITDA	n/a	n/a	n/a	2.27

(a) Includes \$75 million of cash to be paid for merger-related expenses.

(b) Includes fair value adjustment of \$38 million.

- (c) Calculated as total debt less cash and cash equivalents.
- (d) EBITDA is defined as net income before interest, taxes, depreciation and amortization. Pro forma combined Adjusted EBITDA is calculated by adjusting EBITDA with the adjustments identified in the reconciliation table below. Adjusted EBITDA is a measure commonly used in the combined company's industry. Management of the combined company views Adjusted EBITDA as an operating performance measure that provides investors and analysts with a measure of operating results unaffected by differences in capital structures, capital investment cycles and ages of related assets among otherwise comparable companies. In addition, management of the combined company thinks that Adjusted EBITDA eliminates the volatility created by significant shifts in the value of derivative financial instruments and inventories between periods.
- (e) See footnote 5 of Unaudited pro forma condensed combined consolidated financial statements and related notes, which are included in the Form S-4 filed by RRI with the SEC on May 28, 2010, as amended on July 6, 2010 and August 12, 2010 and as may be amended from time to time.
- (f) For 2009, for the six months ended June 30, 2010 and for the twelve months ended June 30, 2010, pro forma combined earnings were insufficient to cover fixed charges by \$155 million, \$256 million and \$620 million, respectively.
- Pro forma combined Adjusted EBITDA is reconciled to income (loss) from continuing operations, the most directly comparable GAAP financial measure, as follows:

(Dollars in millions)	Pro forma year ended December 31, 2009	Pro forma six months ended June 30, 2009	Pro forma six months ended June 30, 2010	Pro forma twelve months ended June 30, 2010
Income (loss) from continuing operations	\$ (42)	\$ 253	\$ (233)	\$ (528)
Interest expense, net	366	176	207	397
Provision for income taxes	7	8	1	
Depreciation and amortization	330	163	199	366
<b>EBITDA</b>	<b>661</b>	<b>600</b>	<b>174</b>	<b>235</b>
Unrealized (gains) losses	(69)	(203)	(73)	61
Western states litigation and similar settlements			17	17
Merger-related costs			19	19
Severance and bonus plan for dispositions	22	18	2	6
Impairment charges	432		248	680
Debt extinguishments (gains) losses	8	(1)		9
Bankruptcy charges and legal contingencies	(62)	(62)	1	1
Lower of cost or market inventory adjustments, net	(37)	(1)	(11)	(47)
Postretirement benefit curtailment gain	(3)		(37)	(40)
Lovett shut down costs	5			5
Fair value adjustments for various contracts and other assets and liabilities	5	5	(4)	(4)
Pension and postretirement benefit amounts previously recognized in accumulated other comprehensive loss	(9)	(3)	(1)	(7)
Cash emission costs	(23)	(6)		(17)
Other	1	<i>Mergers and corporate restructuring. Mergers and acquisitions will be subject to careful review by the research analyst to determine whether they would be beneficial to shareholders. The investment manager will analyze various economic and strategic factors in making the final decision on a</i>		

merger or acquisition. Corporate restructuring proposals are also subject to a thorough examination on a case-by-case basis.

*Environment, social and governance issues.* The investment manager will generally give management discretion with regard to social, environmental and ethical issues, although the investment manager may vote in favor of those that are believed to have significant economic

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benefits or implications for the Fund and its shareholders. The investment manager generally supports the right of shareholders to call special meetings and act by written consent. However, the investment manager will review such shareholder proposals on a case-by-case basis in an effort to ensure that such proposals do not disrupt the course of business or waste company resources for the benefit of a small minority of shareholders.

*Global corporate governance.* Many of the tenets discussed above are applied to the investment manager's proxy voting decisions for international investments. However, the investment manager must be flexible in these worldwide markets. Principles of good corporate governance may vary by country, given the constraints of a country's laws and acceptable practices in the markets. As a result, it is on occasion difficult to apply a consistent set of governance practices to all issuers. As experienced money managers, the investment manager's analysts are skilled in understanding the complexities of the regions in which they specialize and are trained to analyze proxy issues germane to

their regions.

The investment manager will generally attempt to process every proxy it receives for all domestic and foreign securities. However, there may be situations in which the investment manager may be unable to vote a proxy, or may choose not to vote a proxy, such as where:

- (i) the proxy ballot was not received from the custodian bank;
- (ii) a meeting notice was received too late;
- (iii) there are fees imposed upon the exercise of a vote and it is determined that such fees outweigh the benefit of voting;
- (iv) there are legal encumbrances to voting, including blocking restrictions in certain markets that preclude the ability to dispose of a security if the investment manager votes a proxy or where the investment manager is prohibited from voting by applicable law or other regulatory or market requirements, including but not limited to, effective Powers of Attorney;
- (v) the investment manager held shares on the record date but has sold them prior to the meeting date;
- (vi) proxy voting service is not offered by the custodian in the market;
- (vii) the investment manager believes it is not in the best interest of the Fund or its shareholders to vote the proxy for any other reason not enumerated herein; or
- (viii) a security is subject to a securities lending or similar program that



has transferred legal title to the security to another person. The investment manager or its affiliates may, on behalf of one or more of the proprietary registered investment companies advised by the investment manager or its affiliates, determine to use its best efforts to recall any security on loan where the investment manager or its affiliates (a) learn of a vote on a material event that may affect a security on loan and (b) determine that it is in the best interests of such proprietary registered investment companies to recall the security for voting purposes.

Shareholders may view the complete Policies online at [franklintempleton.com](http://franklintempleton.com). Alternatively, shareholders may request copies of the Policies free of charge by calling the Proxy Group collect at (954) 527-7678 or by sending a written request to: Franklin Templeton Companies, LLC, 300 S.E. 2nd Street, Fort Lauderdale, FL 33301-1923, Attention: Proxy Group. Copies of the Fund s proxy voting records are available online at [franklintempleton.com](http://franklintempleton.com) and posted on the SEC website

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at [www.sec.gov](http://www.sec.gov). The proxy voting records are updated each year by August 31 to reflect the most recent 12-month period ended June 30.

**Item 8. Portfolio Managers of Closed-End Management Investment Company and Affiliated Purchasers.**

(a) (1) As of October 26, 2012, the portfolio managers of the Fund are as follows:

**CHRISTOPHER J. MOLUMPHY**  
**CFA**, *Director and Executive Vice President of Advisers*

Mr. Molumphy has been a portfolio manager of the Fund since 1991. He has primary responsibility for the investments of the Fund. Mr. Molumphy has final authority over all aspects of the Fund's investment portfolio, including but not limited to, purchases and sales of individual securities, portfolio risk assessment, and the management of daily cash balances in accordance with anticipated management requirements. The degree to which he may perform these functions, and the nature of these functions, may change from time to time. He joined Franklin Templeton Investments in 1988.

**GLENN I. VOYLES CFA,**

Vice President of  
Advisers

Mr. Voyles has been a manager of the Fund since 1999, providing research and advice on the purchases and sales of individual securities, and portfolio risk assessment for the global income component of the Fund. He joined Franklin Templeton Investments in 1993.

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(a) (2) This section reflects information about the portfolio managers as of the fiscal year ended August 31, 2012.

The following table shows the number of other accounts managed by each portfolio manager and the total assets in the accounts managed within each category:

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different than that charged to the Fund and may include performance based compensation. This may result in fees that are higher (or lower) than the advisory fees paid by the Fund. As a matter of policy, each fund or account is managed solely for the benefit of the beneficial owners thereof. As discussed below, the separation of the trading execution function from the portfolio management function and the application of objectively based trade allocation procedures help to mitigate potential conflicts of interest that may arise as a result of the portfolio managers managing accounts with different advisory fees.

*Conflicts.* The management of multiple funds, including the Fund, and accounts may also give rise to potential conflicts of interest if the funds and other accounts have different objectives, benchmarks, time horizons, and fees as the portfolio manager must allocate his or her time and investment ideas across multiple funds and accounts. The investment manager seeks to manage such competing interests for the time and attention of portfolio managers by having portfolio managers focus on a particular investment discipline. Most other accounts managed by a

portfolio manager are managed using the same investment strategies that are used in connection with the management of the Fund. Accordingly, portfolio holdings, position sizes, and industry and sector exposures tend to be similar across similar portfolios, which may minimize the potential for conflicts of interest. As noted above, the separate management of the trade execution and valuation functions from the portfolio management process also helps to reduce potential conflicts of interest. However, securities selected for funds or accounts other than the Fund may outperform the securities selected for the Fund. Moreover, if a portfolio manager identifies a limited investment opportunity that may be suitable for more than one fund or other account, the Fund may not be able to take full advantage of that opportunity due to an allocation of that opportunity across all eligible funds and other accounts. The investment manager seeks to manage such potential conflicts by using procedures intended to provide a fair allocation of buy and sell opportunities among funds and other accounts.

The structure of a portfolio manager's compensation may give rise to potential conflicts of interest. A portfolio manager's base pay and bonus tend to increase with additional and more complex

responsibilities that include increased assets under management. As such, there may be an indirect relationship between a portfolio manager's marketing or sales efforts and his or her bonus.

Finally, the management of personal accounts by a portfolio manager may give rise to potential conflicts of interest. While the funds and the manager have adopted a code of ethics which they believe contains provisions reasonably necessary to prevent a wide range of prohibited activities by portfolio managers and others with respect to their personal trading activities, there can be no assurance that the code of ethics addresses all individual conduct that could result in conflicts of interest.

The manager and the Fund have adopted certain compliance procedures that are designed to address these, and other, types of conflicts. However, there is no guarantee that such procedures will detect each and every situation where a conflict arises.

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*Compensation.* The investment manager seeks to maintain a compensation program that is competitively positioned to attract, retain and motivate top-quality investment professionals. Portfolio managers receive a base salary, a cash incentive bonus opportunity, an equity compensation opportunity, and a benefits package. Portfolio manager compensation is reviewed annually and the level of compensation is based on individual performance, the salary range for a portfolio manager's level of responsibility and Franklin Templeton guidelines. Portfolio managers are provided no financial incentive to favor one fund or account over another. Each portfolio manager's compensation consists of the following three elements:

**Base salary** Each portfolio manager is paid a base salary.

**Annual bonus** Annual bonuses are structured to align the interests of the portfolio manager with those of the Fund's shareholders. Each portfolio manager is eligible to receive an annual bonus. Bonuses generally are split between cash (50% to 65%) and restricted shares of Resources stock (17.5% to 25%)

and mutual fund shares (17.5% to 25%). The deferred equity-based compensation is intended to build a vested interest of the portfolio manager in the financial performance of both Resources and mutual funds advised by the investment manager. The bonus plan is intended to provide a competitive level of annual bonus compensation that is tied to the portfolio manager achieving consistently strong investment performance, which aligns the financial incentives of the portfolio manager and Fund shareholders. The Chief Investment Officer of the investment manager and/or other officers of the investment manager, with responsibility for the Fund, have discretion in the granting of annual bonuses to portfolio managers in accordance with Franklin Templeton guidelines. The following factors are generally used in determining bonuses under the plan:

- *Investment performance.* Primary consideration is given to the historic investment performance of all accounts managed by the portfolio manager over the 1, 3 and 5 preceding years measured against risk benchmarks developed by the



fixed income management team. The pre-tax performance of each fund managed is measured relative to a relevant peer group and/or applicable benchmark as appropriate.

- *Non-investment performance.* The more qualitative contributions of the portfolio manager to the investment manager's business and the investment management team, including business knowledge, productivity, customer service, creativity, and contribution to team goals, are evaluated in determining the amount of any bonus award.

- *Responsibilities.* The characteristics and complexity of funds managed by the portfolio manager are factored in the investment manager's appraisal.

**Additional long-term equity-based**

**compensation** Portfolio managers may also be awarded restricted shares or units of Resources stock or restricted shares or units of one or more mutual funds. Awards of



such deferred equity-based compensation typically vest over time, so as to create incentives to retain key talent.

Portfolio managers also participate in benefit plans and programs available generally to all employees of the investment manager.

*Ownership of Fund shares.* The investment manager has a policy of encouraging portfolio managers to invest in the funds they manage. Exceptions arise when, for example, a fund is closed to new investors or when tax considerations or jurisdictional constraints cause such an investment to be inappropriate for the portfolio manager. The following is the dollar range of Fund shares beneficially owned by the portfolio manager (such amounts may change from time to time):

**Item 9. Purchases of Equity Securities by Closed-End Management Investment Company and Affiliated Purchasers.**  
N/A

**Item 10. Submission of Matters to a Vote of Security Holders.**

There have been no changes to the procedures by which shareholders may recommend nominees to the Registrant's Board

of Trustees that would require disclosure herein.

**Item 11. Controls and Procedures.**

**(a) Evaluation of Disclosure Controls and Procedures.**

The Registrant maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Registrant's filings under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 is recorded, processed, summarized and reported within the periods specified in the rules and forms of the Securities and Exchange Commission. Such information is accumulated and communicated to the Registrant's management, including its principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure. The Registrant's management, including the principal executive officer and the principal financial officer, recognizes that any set of controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives.

Within 90 days prior to the filing date of this Shareholder Report on Form N-CSR, the Registrant had carried

out an evaluation,  
under the supervision  
and with the  
participation of the  
Registrant's  
management, including  
the Registrant's  
principal executive  
officer and the  
Registrant's principal  
financial officer, of  
the effectiveness of  
the design and  
operation of the  
Registrant's disclosure  
controls and

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procedures. Based on such evaluation, the Registrant's principal executive officer and principal financial officer concluded that the Registrant's disclosure controls and procedures are effective.

**(b) Changes in Internal Controls.**

There have been no significant

changes in the Registrant's internal controls or in other factors that could significantly affect the internal controls subsequent to the date of their evaluation in connection with the preparation of this Shareholder Report on Form N-CSR.

**Item 12. Exhibits.**

**(a) (1)** Code of Ethics

**(a) (2)** Certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 of Laura F. Fergerson, Chief Executive Officer - Finance and Administration, and Gaston Gardey, Chief Financial Officer and Chief Accounting Officer **(b)**

Certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 of Laura F. Fergerson, Chief Executive Officer - Finance and Administration, and Gaston Gardey, Chief Financial Officer and

Chief Accounting  
Officer

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934 and the Investment Company Act of 1940, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**FRANKLIN UNIVERSAL  
TRUST**

By /s/LAURA F.  
FERGERSON

Laura F. Ferguson  
Chief Executive Officer  
- Finance and  
Administration  
Date: October 26, 2012

Pursuant to the requirements of the Securities Exchange Act of 1934 and the Investment Company Act of 1940, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By /s/LAURA F.  
FERGERSON

Laura F. Ferguson  
Chief Executive Officer  
- Finance and  
Administration  
Date: October 26, 2012

By /s/GASTON GARDEY  
Gaston Gardey

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Chief Financial Officer  
and  
Chief Accounting  
Officer  
Date: October 26, 2012