TROUTMAN SANDERS LLP
ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

401 NINTH STREET, N.W., SUITE 1000
WASHINGTON, D.C. 20004
TELEPHONE: 202-274-2950

JEFFREY M. JAKUBIAK
jeffrey.jakubiak@troutmansanders.com

Direct Dial: 202-274-2892
Fax: 202-654-5613

November 22, 2002

**By Hand Delivery**

Hon. Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: *Mirant Delta, LLC & Mirant Potrero LLC*, Docket No. ER02-64-___
*Mirant Delta, LLC & Mirant Potrero LLC*, Docket No. ER02-198-___

Dear Secretary Salas:

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.602 (2002), Mirant Delta, LLC ("Mirant Delta") and Mirant Potrero, LLC ("Mirant Potrero") (collectively, "Mirant") hereby submit an original and 14 copies of an Offer of Settlement ("Settlement"), which represents an integrated and complete resolution of issues in the captioned proceedings among and between the following parties (the "Supporting Parties"): Mirant, the California Independent System Operator Corporation ("ISO"), and Pacific Gas and Electric Company ("PG&E").[1]

The Settlement consists of:

(i) this transmittal letter, which includes an Explanatory Statement concerning the Settlement;

(ii) a Stipulation and Agreement by and between the Supporting Parties ("Stipulation");

[1] The only other parties to these proceedings are the California Electricity Oversight Board ("EOB"), the California Public Utilities Commission ("CPUC"), and the City and County of San Francisco ("CCSF"). The EOB has authorized Mirant to represent that it does not oppose the Settlement. Staff Counsel to the CPUC has indicated that it will recommend to the CPUC that it support the Settlement. CCSF raised no substantive issues in these proceedings.

(iii) revised rate schedule sheets to Mirant's Must-Run Service Agreements with the ISO ("Revised RMR Rate Schedule Sheets") showing all changes agreed-upon by the Supporting Parties, to be effective January 1, 2002;

(iv) blacklined versions of the Revised RMR Rate Schedule Sheets indicating changes from those previously filed in Docket Nos. ER02-64-000 and ER02-198-000;

(v) a proposed order approving the Settlement; and

(vi) a draft notice of filing.

Also enclosed are two additional copies of the Settlement to be stamped and returned with our messenger. Mirant respectfully requests that the Settlement be transferred to the Commission pursuant to Rule 602(b)(2)(ii).

Mirant respectfully submits that this Settlement is in the public interest and should be accepted by the Commission. This Settlement is the result of in-depth negotiations among the Supporting Parties and represents the full resolution of issues in these dockets. Accordingly, it is in the public interest for the Commission to approve the Supporting Parties' Settlement.

## EXPLANATORY STATEMENT[2]

### Procedural History

1. Mirant operates various electric generating units subject to certain Must-Run Service Agreements ("RMR Agreements") with the ISO.

2. On October 9, 2001, Mirant submitted in Docket No. ER02-64-000 an information package in the form of an informational filing ("Information Package") in accordance with Schedule F of its RMR Agreements. The Information Package contained data and workpapers detailing Mirant's calculation of its proposed Annual Fixed Revenue Requirements ("AFRRs") and Variable O&M Rates ("VOM Rates") for calendar year 2002, based on a cost year for the twelve months ended June 30, 2001.

3. Between October 30, 2001, and February 5, 2002, Mirant and the Joint Parties submitted in Docket No. ER02-64-000 several filings concerning Mirant's Schedule F Information

---

[2] This Explanatory Statement is not intended to alter any of the specific provisions of the Settlement or Stipulation, including its exhibits and attachments, and is provided solely to comply with the Commission's rules.

Package. In particular, on October 30, 2001, and January 22, 2001, the Joint Parties filed protests to the Information Package, raising a variety of issues. On November 14, 2001, and February 5, 2002, Mirant filed answers to these protests. The Commission has not yet acted on these filings, or on the Information Package itself.

4. On October 31, 2001, Mirant filed in Docket No. ER02-198-000 revised tariff sheets containing certain changes to, *inter alia*, the Contract Service Limits, Hourly Availability Charges and Penalty Rates, and Maximum Net Dependable Capabilities contained in the Schedules to the RMR Agreements in accordance with Section 4.11(a) of the RMR Agreements. In addition, the revised sheets were conformed to the AFRRs and VOM Rates contained Mirant's Schedule F Information Package. Mirant requested an effective date of January 1, 2002, for these revised tariff sheets. Certain of these proposed tariff changes were opposed by PG&E, the ISO, the EOB, and the CPUC (collectively, the "Joint Parties").[3] On December 13, 2001, Mirant submitted a Motion to Leave to Submit Answer and Answer in response to the filings by the Joint Parties.

5. On December 19, 2001, the Commission issued an order conditionally accepting for filing the revised tariff sheets submitted in Docket No. ER02-198-000, to be effective January 1, 2002, subject to refund and the outcome of the ongoing proceedings in Docket No. ER02-64-000. *Mirant Delta, LLC*, 97 FERC ¶ 61,284 (2001) ("December 19 Order"). In the December 19 Order, the Commission stated that the disputed issues raised by the Joint Parties "may best be resolved through good faith negotiations between the parties." *Id.* at 62,289.[4]

6. On November 20, 2002, the Supporting Parties entered into the attached Stipulation and Agreement ("Stipulation") pursuant to which, *inter alia*: (a) the Supporting Parties consent to the changes to Mirant's RMR Agreements, as shown in the attached Revised RMR Rate Schedule Sheets, effective as of January 1, 2002, and (b) Mirant agrees not to seek an effective date of earlier than January 1, 2005, for any of the following terms of the RMR Agreements as they pertain to the RMR Units, without the express written consent of both the ISO and PG&E: (i) Maximum Net Dependable Capacities; (ii) AFRRs; (iii) VOM Rates; (iv) Owner's Repair Cost Obligation.

---

3 The only other party to respond to this filing was City and County of San Francisco, whose Motion to Intervene raised no substantive issues.

4 The Commission also directed Mirant to make a compliance filing, which it did on January 2, 2002, as amended January 17, 2002. In addition, Mirant submitted an errata filing on February 15, 2002, which remains pending before the Commission.

7. In particular, as a resolution of the issues raised by the Joint Parties in Docket Nos. ER02-64-000 and ER02-198-000, the Supporting Parties consent to, among other things, the following changes to Mirant's RMR Agreements, as reflected in the Revised RMR Rate Schedule Sheets:

(a) New AFRRs for all units subject to RMR obligations ("RMR Units"), as identified in the Stipulation;

(b) New Owner's Repair Cost Obligations for the Contra Costa, Pittsburg, and Potrero Facilities, as identified in the Stipulation;

(c) For Potrero Unit 3, a new VOM of $3.16/MWh;

(d) For Contra Costa Units 6 and 7, Maximum Net Dependable Capacities ("MNDCs") of 337 MW for each; and

(e) The deletion of the following language from Schedule A, Section 1 of the RMR Agreements: "Maximum Net Dependable Capacity values may be affected by operational limitations due to environmental restrictions as described in Section 3 below."

**Effective Date of Stipulation**

The Stipulation shall be effective on the date the Commission issues an order approving the Stipulation without modification or condition, or if modified or conditioned, upon the date of acceptance of the modifications or conditions contained in such order by all of the Supporting Parties ("Effective Date").

**Refunds**

Refunds shall be paid by Mirant to the ISO by one of two means, depending on whether, for a given calendar month for which refunds are due as a result of the Stipulation, a Revised Adjusted RMR Invoice (as that term is defined in the RMR Agreements) has been submitted to the ISO by Mirant by the date that is 30 days after the Effective Date of this Stipulation (the "Refund Date").

For months for which Mirant has not yet submitted a Revised Adjusted RMR Invoice as of the Refund Date, Mirant will credit any amounts owed for that month as a result of the Stipulation against charges contained in that invoice. Any net amount owed by Mirant to the ISO on that invoice shall be paid by wire transfer or other such method as the ISO and Mirant may agree upon.

For months for which Mirant has submitted a Revised Adjusted RMR Invoice as of the Refund Date ("Past Billing Months"), refunds owed shall be paid as a cumulative lump-sum credit against the charges contained on the first Estimated RMR Invoice (as that term is defined in the RMR Agreements) submitted after the Refund Date by Mirant to the ISO. Any net amount owed by Mirant to the ISO on that invoice shall be paid by wire transfer or other such method as the ISO and Mirant may agree upon.

Refunded amounts shall include interest in accordance with the Commission's regulations, 18 C.F.R. § 35.19a (2002). Mirant shall file with the Commission and serve on all participants a report of such amounts refunded within 15 days after the date on which the final refund payment is made pursuant to the Stipulation.

**Comments**

In accordance with Rules 602(d)(2) and 602(f), Mirant hereby notifies all parties to these proceedings that initial comments on the Settlement are due on December 12, 2002, and that reply comments are due on December 23, 2002.

Respectfully submitted,

______________________________

James C. Beh
Jeffrey M. Jakubiak
TROUTMAN SANDERS LLP
401 Ninth Street, NW, Suite 1000
Washington, D.C. 20004
(202) 274-2950

Attorneys for
Mirant Delta, LLC and Mirant Potrero, LLC

Enclosures

## <u>CERTIFICATE OF SERVICE</u>

I hereby certify that on this 22nd day of November, 2002, I have served by first class mail a copy of the foregoing Offer of Settlement upon each person designated on the official service list maintained by the Secretary in this proceeding.


________________________

Jeffrey M. Jakubiak
TROUTMAN SANDERS LLP
401 Ninth Street, NW, Suite 1000
Washington, D.C. 20004
(202) 274-2950

**STIPULATION AND AGREEMENT**

## STIPULATION AND AGREEMENT

This Stipulation and Agreement (the "Stipulation") is dated as of November 20, 2002, by and among Mirant Delta, LLC ("Mirant Delta") and Mirant Potrero, LLC ("Mirant Potrero") (collectively, "Mirant"), the California Independent System Operator Corporation ("ISO"), and Pacific Gas and Electric Company ("PG&E"). These parties are referred to herein individually as a "Party" and collective as the "Parties."

### RECITALS

A. Mirant Delta is the owner of the Contra Costa Power Plant located in Antioch, California, and the Pittsburg Power Plant located in Pittsburg, California. Mirant Potrero is the owner of the Potrero Power Plant located in San Francisco, California.

B. Mirant Delta and Mirant Potrero operate generating units at their respective power plants subject to Must-Run Service Agreements ("RMR Agreements") with the ISO, the Schedules to which contain certain generation unit-specific terms and conditions. The units subject to such obligations under these RMR Agreements are referred to herein as RMR Units.

C. On October 9, 2001, Mirant submitted in Docket No. ER02-64-000 an information package in the form of an informational filing ("Information Package") pursuant to obligations contained in Schedule F of its RMR Agreements. The Information Package contained data and workpapers detailing Mirant's calculation of its proposed Annual Fixed Revenue Requirements ("AFRRs") and Variable O&M Rates ("VOM Rates") for calendar year 2002, based on a cost year for the twelve months ended June 30, 2001.

D. Between October 30, 2001, and February 5, 2002, Mirant and the Joint Parties submitted in Docket No. ER02-64-000 several filings concerning Mirant's Schedule F Information Package. In particular, on October 30, 2001, and January 22, 2001, the Joint Parties filed protests to the Information Package, raising a variety of issues. On November 14, 2001, and February 5, 2002, Mirant filed answers to these protests. The Commission has not yet acted on these filings, or on the Information Package itself.

E. On October 31, 2001, Mirant filed in Docket No. ER02-198-000 revised tariff sheets containing certain changes to, *inter alia*, the Contract Service Limits, Hourly Availability Charges and Penalty Rates, and Maximum Net Dependable Capabilities contained in the Schedules to the RMR Agreements. In addition, the filed sheets contained changes reflecting the AFRRs and VOM Rates contained Mirant's Schedule F Information Package. Mirant requested an effective date of January 1, 2002, for these revised tariff sheets. Certain of these changes were opposed by PG&E, the ISO, the EOB, and the CPUC. On December 13, 2001, Mirant submitted a Motion to Leave to Submit Answer and Answer in response to the filings by PG&E, the ISO, the EOB, and the CPUC.

F. On December 19, 2001, the Commission issued an order conditionally accepting for filing the revised tariff sheets submitted in Docket No. ER02-198-000, to be effective January 1, 2002, subject to refund and the outcome of the ongoing proceedings in Docket No. ER02-64-000. *Mirant Delta, LLC*, 97 FERC ¶ 61,284 (2001) ("December 19 Order"). In the December 19 Order, the Commission noted its belief that the disputed issues raised by the Joint Parties "may best be resolved through good faith negotiations between the parties." *Id*. at 62,289.

G. The Parties wish to resolve all outstanding issues set for dispute resolution in these proceedings.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements hereinafter set forth, the Parties mutually covenant and agree as follows:

**1. IMPLEMENTATION**

1.1 The Parties agree that Mirant shall make the following changes to Mirant's RMR Agreements, to be effective January 1, 2002, through December 31, 2004.

(a) The AFRRs for Mirant's electric generating facilities shall be as follows:

| **Facility** | **AFRR** |
|---|---:|
| Contra Costa | $45,620,931 |
| Pittsburg | $90,725,000 |
| Potrero | $20,522,119 |

(b) The above facility-specific AFRRs shall be allocated across the generating units at these facilities that are currently subject to obligations under the RMR Agreements ("RMR Units"), as follows:

| **Facility & Unit** | **AFRR** |
|---|---:|
| Contra Costa 4 | $456,209 |
| Contra Costa 5 | $456,209 |
| Contra Costa 6 | $21,202,660 |
| Contra Costa 7 | $23,505,852 |
| Pittsburg 5 | $14,584,977 |
| Pittsburg 6 | $18,097,625 |
| Pittsburg 7 | $43,006,970 |
| Potrero 3 | $18,684,026 |
| Potrero 4 | $534,068 |
| Potrero 5 | $646,958 |
| Potrero 6 | $657,067 |

(c) The VOM Rate for Potrero Unit 3 shall be $3.16/MWh;

(d) The Maximum Net Dependable Capacity ("MNDC") of Contra Costa Units 6 and 7 shall each be 337 MW; and

(e) The Owner's Repair Cost Obligation for the Contra Costa, Pittsburg, and Potrero Facilities shall be as follows:

| **Facility** | **Owner's Repair Cost Obligation** |
|---|---:|
| Contra Costa | $833,911 |
| Pittsburg | $1,654,145 |
| Potrero | $435,830 |

1.2 The Parties agree that Mirant shall delete the following language from Schedule A, Section 1, of the RMR Agreements: "Maximum Net Dependable Capacity values may be affected by operational limitations due to environmental restrictions as described in Section 3 below."

1.3 The Parties agree that Mirant shall revise the RMR Agreement for Mirant Delta's Pittsburg Facility so that Average Other Outage Hours and Total Available Hours, specified in Table B-5, and Maximum Annual Service Hours, specified in Schedule A, Section 12, for Pittsburg Units 5-7 for calendar year 2002 are as follows:

| **Unit** | **Average Other Outage Hours** | **TAH** | **Maximum Annual Service Hours** |
|---|---|---|---|
| Pittsburg Unit 5 | 1,447 | 4,907 | 5,031 |
| Pittsburg Unit 6 | 917 | 5,869 | 6,189 |
| Pittsburg Unit 7 | 1,080 | 7,146 | 5,620 |

Changes to these figures effective January 1, 2003, shall be made in accordance with the provisions of Section 4.11(a) of the RMR Agreements and shall reflect this agreement.

1.4 The Parties agree that Mirant shall revise the RMR Agreement for Mirant Delta's Contra Costa Facility so that Maximum Annual MWh, specified in Schedule A, Section 12 for Contra Costa Units 6 and 7 for calendar year 2002 are as follows:

| **Unit** | **Maximum Annual MWh** |
|---|---|
| Contra Costa Unit 6 | 1,054,735 |
| Contra Costa Unit 7 | 1,169,308 |

Changes to these figures effective January 1, 2003, shall be made in accordance with the provisions of Section 4.11(a) of the RMR Agreements and shall reflect this agreement.

1.5 On June 28, 2002, in Docket No. ER02-2203-000, Mirant Delta submitted certain revised tariff sheets to the RMR Agreement pertaining to the Pittsburg Facility (the "June Pittsburg Sheets"). The June Pittsburg Sheets were accepted by the Commission in a letter order issued August 27, 2002. Table D-0 of the June Pittsburg Sheets contained certain typographical errors in that the Prepaid Start-up Costs and Prepaid Start-up Charges for Pittsburg Units 5-7 were inadvertently changed from the values submitted in Mirant's filing of October 31, 2001, in Docket No. ER02-198-000. The Parties agree that Mirant shall revise Table D-0 of the RMR Agreement for Mirant Delta's Pittsburg Facility to restore the Prepaid Start-up Costs and Prepaid Start-up Charges for Pittsburg Units 5-7 to the values submitted on October 31, 2001, in Docket No. ER02-198-000.

1.6 The Parties agree that Mirant shall revise the RMR Agreements so that all figures included therein reflect the agreed-to changes specified in Sections 1.1 to 1.5, *supra*.

1.7 The Parties agree to work diligently to seek agreement on revisions to Must-Run Service Agreements ("MRSAs") so that the Owner of a unit operating under Condition 2 shall not be any better or worse off if a Long-term Planned Outage is cancelled sometime during the Contract Year, provided that the Owner provides the ISO reasonable notice of the cancellation of the Long-term Planned Outage.

1.8 Attached hereto are rate schedule sheets showing the agreed-upon changes that result from the agreements identified in Sections 1.1 to 1.6, *supra*, effective January 1, 2002 ("Revised RMR Rate Schedule Sheets"). Also attached are blacklined versions to the Revised RMR Rate Schedule Sheets indicating changes from those RMR rate schedule sheets previously filed with the Commission.

The attachments to this Stipulation are designated as follows:

| **Must-Run Service Agreement** | **Revised Rate Schedule Sheets** | **Blacklined Rate Schedule Sheets** |
|---|---|---|
| Mirant Delta, Contra Costa Plant | Attachment A | Attachment D |
| Mirant Delta, Pittsburg Plant | Attachment B | Attachment E |
| Mirant Potrero, Potrero Plant | Attachment C | Attachment F |

1.9 Upon their effectiveness, the Revised RMR Rate Schedule Sheets shall supersede and revise the corresponding currently effective rate schedule sheets that comprise the RMR Agreements previously filed by Mirant.

1.10 The Parties consent to all changes to the RMR Agreements filed by Mirant in Docket No. ER02-198-000, including amendments and errata thereto filed January 2, January 17, and February 15, 2002, except as modified by this Stipulation.

1.11 If approved by the Commission, this Stipulation fully resolves the outstanding disputes among the Parties in Docket Nos. ER02-64-000 and ER02-198-000.

## 2. EFFECTIVE DATE

2.1 This Stipulation shall be effective on the date the Commission shall have issued an order approving the Stipulation without modification or condition, or if modified or conditioned, upon the date of acceptance of the modifications or conditions contained in such order by all of the Parties ("Effective Date").

## 3. REFUNDS

3.1 Upon this Stipulation becoming effective pursuant to Section 2, *supra*, all charges under the RMR Agreements affected by the terms of this Stipulation shall be recalculated as though such terms were in place and effective January 1, 2002, as more fully described below.

3.2 Any differences between the charges resulting from such recalculation and the charges previously paid for the period commencing January 1, 2002, shall result in a refund with interest. The refund will be processed as detailed below.

3.3 Refunds due for each Billing Month for which a Revised Adjusted RMR Invoice had not yet been submitted to the ISO by Mirant on the date 30 days after the Effective Date of this Stipulation (the "Refund Date") shall be submitted in accordance with Section 9.1(b)(v) of the RMR Agreements.

(a) For each such Billing Month, Mirant shall submit a Revised Adjusted RMR Invoice that reflects the rates set forth in this Stipulation.

(b) To the extent that the amount of the Revised Adjusted RMR Invoice for each such Billing Month shows a credit due to ISO, such amount shall be paid to the ISO on the date that payment of the Revised Adjusted RMR Invoice for RMR services for each such Billing Month is due, by wire transfer or such other method as the ISO and Mirant may agree upon.

3.4 Refunds due for the total of all Billing Months for which a Revised Adjusted RMR Invoice has already been submitted to the ISO by Mirant as of the Refund Date ("Past Billing Months") shall be shown as a credit against the charges on the first Estimated RMR Invoice submitted after the Refund Date to the ISO by Mirant and shall be paid as a credit against the charges on the subsequent Revised Estimated RMR Invoice.

(a) Mirant shall credit the full refund amount due for Past Billing Months regardless of the level of the charges on such Estimated RMR Invoice. To the extent that credit of such refund amounts (including applicable interest) exceeds the amounts due to Mirant, such amount shall be paid to the ISO on the date that payment of such subsequent Revised Estimated RMR Invoice for RMR services is due, by wire transfer or such other method as the ISO and Mirant may agree upon.

(b) In no event shall the refund for Past Billing Months be made later than 60 days after the Refund Date.

3.5 To support the amounts to be credited, Mirant shall, for each applicable Billing Month:

(a) compute and set forth the difference between (i) the amounts payable by the ISO to Mirant in accordance with the rates in effect prior to the approval date of this Stipulation, and (ii) the amounts payable by the ISO to Mirant in accordance with the rates that result from this Stipulation;

(b) compute, set forth and add interest to the difference calculated in accordance with (a) above, with interest computed pursuant to Section 35.19a of the Commission's Regulations, 18 C.F.R. § 35.19a;[1]

(c) set forth the total amount of the refund; and

(d) include this supporting documentation with the invoice on which each refund amount is credited.

3.6 No later than the date 15 days after the final refund payment is made to the ISO (the "Report Date"), Mirant shall prepare and provide to the Parties a refund report with a level of detail sufficient to permit verification of the accuracy of the amounts refunded.

3.7 The ISO will revise its RMR settlement database to reflect the amount that Mirant actually received for each Billing Month.

3.8 In the event that, in the future, a Prior Period Change is required for a matter other than an adjustment resulting from this Stipulation, and a Prior Period Change Worksheet is submitted by Mirant, in accordance with Article 9.1(g), that includes any Billing Month for which a refund was provided in accordance with this refund section, Mirant shall show the actual amount paid for the applicable Billing Month(s) in the "Revised Adjusted" columns of the Prior Period Change Worksheets.

3.9 In no event shall the calculation of the refund amount, the refund amount actually paid by Mirant, or the accompanying Refund Report, include any charge, credit, offset or other adjustment that is not listed in Sections 3.1 to 3.5, *supra*.

3.10 In this Section 3, the following capitalized terms are defined as pursuant to the sections in the RMR Agreements indicated below:

---

1 For Billing Months described by Section 3.4, the dates used to calculated interest for each Billing Month are the Revised Estimated RMR Invoice payment date for the applicable Billing Month and the Revised Estimated RMR Invoice payment date for the invoice on which the refund is credited. For Billing Months described by Section 3.3, interest is calculated in accordance with the invoice template.

| Term | RMR Agreement Section |
|---|---|
| Billing Month | 9.1(b) |
| Estimated RMR Invoice | 9.1(b) |
| Prior Period Change | 9.1(g) |
| Prior Period Change Worksheet | 9.1(g) |
| Revised Adjusted RMR Invoice | 9.1(b) |
| Revised Estimated RMR Invoice | 9.1(b) |

## 4. ACTIONS BY PARTIES

4.1 The Parties hereby waive any and all rights to seek rehearing or judicial review of the Commission's order(s) approving this Stipulation, and shall be bound by and entitled to the benefits of the provisions of this Stipulation; *provided, however*, that if the Commission approves this Stipulation with modifications or conditions, a Party may seek rehearing or judicial review of the Commission's order(s) approving this Stipulation solely to challenge the Commission's imposition of modifications or conditions in order to preserve the terms and conditions of this Stipulation as filed.

4.2 Mirant will not seek an effective date of earlier than January 1, 2005, for any of the following terms of the RMR Agreements as they pertain to the RMR Units, without the express written consent of both the ISO and PG&E: (a) MNDCs as contained in Schedule A, Section 1, of the RMR Agreements, except insofar as such changes are required or permitted by Section 7.7 of the RMR Agreements; (b) AFRRs, as contained in Table B-6 of the RMR Agreements; (c) VOM Rates, as contained in Table C1-18 of the RMR Agreements. The foregoing sentence is not intended to imply that the ISO or PG&E consent to Mirant unilaterally filing changes to the MNDCs contained in Schedule A, Section 1, with an effective date of January 1, 2005, or thereafter.

4.3 In the event Mirant seeks to change any MNDCs pursuant to Section 7.7 of the RMR Agreements, it shall seek the ISO's prior approval of such changes, which shall not be unreasonably withheld.

4.4 The Parties shall not propose, pursuant to Sections 205 or 206 of the Federal Power Act, any changes to the rates, terms or conditions expressly covered by this Stipulation with an effective date earlier than January 1, 2005.

4.5 Notwithstanding the provisions of Section 4.4 of this Stipulation, Mirant shall continue to submit annual changes to the RMR Agreements in accordance with Section 4.11(a), Schedule B, and Schedule D of the RMR Agreements and consistent with this Stipulation.

4.6 In the event the Commission, acting on a complaint of another person, on its own motion, or otherwise, establishes a proceeding under Section 206 of the FPA to investigate, change, and/or modify the rates, terms, and/or conditions of Mirant's RMR Agreements, the provisions of Section 4.4 of this Stipulation shall no longer apply.

4.7 The ISO will recommend to its Board of Governors the removal of all obligations by Mirant Potrero to maintain oil-burning facilities at the Potrero Power Plant, as described in Schedule H of the RMR Agreement for Mirant Potrero.

**5. RESERVATIONS**

5.1 Agreement to or acquiescence in this Stipulation shall not be deemed in any respect to constitute an admission by any Party hereto that any allegation or contention made by any other Party in these proceedings is true or valid. In reaching this Stipulation, the Parties specifically agree that this Stipulation represents a negotiated agreement for the sole purpose of settling certain issues, as described herein, in the captioned dockets. No Party or affiliate of any of the Parties shall be deemed to have approved, accepted, agreed to, or consented to any fact, concept, theory, rate methodology, principle, or method relating to jurisdiction, prudence, reasonable cost of service, cost classification, cost allocation, rate design, rate schedule provisions, or other matters underlying or purported to underlie any of the resolutions of the issues provided herein. The Commission's approval of the Settlement shall not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5.2 The Parties agree that the resolution of any matter in this Stipulation shall not be deemed to be a "settled practice" as that term was interpreted and applied in *Public Service Commission of the State of New York v. FERC*, 642 F.2d 1335 (D.C. Cir. 1980).

5.3 This Stipulation does not resolve any issues pending before the Commission on exceptions from the Initial Decision in Docket Nos. ER98-495-000, *et al.*, nor does this Stipulation restrict in any way the positions that the Parties may take with respect to such issues. The Parties specifically reserve their rights and positions therein. Further, except as provided in Sections 4.2 to 4.4 of this Stipulation, this Stipulation is not intended to limit or affect the rights and remedies of the Parties with respect to any other particular dispute not resolved by this Stipulation.

5.4 Notwithstanding any provision of this Stipulation, nothing included in this Stipulation is intended to limit or affect the rights and remedies of the Parties with respect to any claim that the amounts invoiced under the RMR Agreements are incorrect, including any dispute involving the interpretation or application of the RMR Agreements.

**6. MISCELLANEOUS PROVISIONS**

6.1 The titles and headings of the various Articles and Sections in this Stipulation are for reference purposes only. They are not to be construed or taken into account in interpreting this Stipulation, and do not qualify, modify, or explain the effects of this Stipulation.

6.2 The rights conferred and obligations imposed on any Party by this Stipulation shall inure to the benefit of and be binding on that Party's successors in interest or assignees as if such successor or assignee was itself a Party hereto.

6.3 This Stipulation may be executed in counterparts by each Party, each of which shall be deemed to be an original, but which together shall constitute one and the same instrument.

6.4 The discussion among the Parties that have resulted in this Stipulation have been conducted on the explicit understanding that they were undertaken subject to Rule 602(e) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602(e)(2002), and the rights of the Parties with respect thereto shall not be impaired by this Stipulation.

## 7. CONCLUSION

The Parties respectfully request that the Commission approve the instant Stipulation without modification or condition.

Signed and Dated this 20th day of November, 2002.

The California Independent System Operator Corporation

By: ______________________________
Name: ____________________________
Title: ____________________________

Mirant Delta, LLC and
Mirant Potrero, LLC

By: ______________________________
Name: ____________________________
Title: ____________________________

Pacific Gas and Electric Company

By: ______________________________
Name: ____________________________
Title: ____________________________

**<u>ATTACHMENT A</u>**

**Revised RMR Rate Schedule Sheets for**
**Mirant Delta, LLC**
**Contra Costa Power Plant**

# Schedule A

## Unit Characteristics, Limitations and Owner Commitments

**1. <u>Description of Facility</u>**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

| Unit | RMR (Y/N) | Maximum Net Dependable Capacity (includes ISO-paid Upgrade capacity)* | Fuel Type |
|---|---|---|---|
| 4 | Y | N/A | N/A |
| 5 | Y | N/A | N/A |
| 6 | Y | 337 MW | Natural Gas |
| 7 | Y | 337 MW | Natural Gas |

For this Facility, the Owner will use <u>MWh</u> in Schedule B to allocate Annual Fixed Revenue Requirements to and among Units. This election shall be applicable to all Facilities containing Reliability Must Run Units subject to any “RMR contract” as defined in the ISO Tariff executed by Owner or any of its affiliates as defined in 18 CFR § 161.2.

* Maximum Net Dependable Capacity shall reflect any transformer or line loss to the Delivery Point.

**2. <u>Description of RMR Units</u>**

Provide the address(es) of the Units at the Facility and the following tabular information:

Contra Costa Power Plant
3201 Wilbur Avenue
Antioch, CA 94509

**11. Minimum Off Time** (does not apply to Units 4 and 5)

| Unit | Hours |
|---|---|
| 4 | 0 |
| 5 | 0 |
| 6 | 0 |
| 7 | 0 |

**12. Contract Service Limits**

| Unit | Maximum Annual MWh | Maximum Annual Service Hrs | Maximum Annual Start-ups |
|---|---|---|---|
| 4 | N/A | 7,164 | 3 |
| 5 | N/A | 5,916 | 1 |
| 6 | 1,054,735 | 5,617 | 10 |
| 7 | 1,169,308 | 6,168 | 12 |

Maximum Monthly MWh (Hydroelectric Units only) (N/A)

MWh

| Unit | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |

**13. Owner's Repair Cost Obligation**

Owner's Repair Cost Obligation for the current Contract Year is $833,911.

**14. Existing Contractual Limitations and Other Contract Restrictions on Market Transactions**

None.

**15. Applicable UDC Tariff(s)**

PG&E's Schedule S-Standby Service will apply for the provision of auxiliary power wherever the UDC tariff is used for the cost of auxiliary power in these Schedules.

**Equation B-5**

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

· For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

**Table B-0**

| Unit | Fixed Option Payment Factor |
|---|---|
| 4 | 0.50 |
| 5 | 0.50 |
| 6 | 0.50 |
| 7 | 0.50 |

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the Contract Year are set forth in Table B-1 below:

**Table B-1**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 4 | $41.68 | $83.37 |
| 5 | $60.86 | $121.73 |
| 6 | $1,481.39 | $2,962.78 |
| 7 | $1,461.89 | $2,923.78 |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

- the Owner and ISO do not agree on the Surcharge Payment Factor, the Surcharge Payment Factor shall equal the Fixed Option Payment Factor, unless the Owner demonstrates in ADR that it would not have installed the proposed Capital Item in accordance with Good Industry Practice but for its obligations to the ISO under this Agreement, in which case the Surcharge Payment Factor shall be as determined in ADR.

- For Units under Condition 2, the Surcharge Payment Factor is 1.

The Hourly Capital Item Charges for the Contract Year are set forth in Table B-2 below:

**Table B-2**

| Unit | Capital Item Project No. | Annual Capital Item Cost | Condition 1 Surcharge Payment Factor | Condition 1 Hourly Capital Item Charge |
|---|---|---|---|---|
| | | | | |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

5. The Monthly Nonperformance Penalty is calculated pursuant to Section 8.5 using the following variables:

A. Hourly Penalty Rate

A Unit's Hourly Penalty Rate for each Contract Year is the lesser of (a) the Unit's Hourly Availability Rate for the Contract Year (calculated pursuant to Item 2.A above), or (b) three times the Unit's Hourly Availability Charge for the Contract Year (as shown in Table B-1 above).

The Hourly Penalty Rates for the Contract Year are set forth in Table B-3 below:

**Table B-3**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 4 | $83.37 | $83.37 |
| 5 | $121.73 | $121.73 |
| 6 | $2,962.78 | $2,962.78 |
| 7 | $2,923.78 | $2,923.78 |

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

**Table B-6**

| Unit | Annual Fixed Revenue Requirement |
|---|---|
| 4 | $456,209 |
| 5 | $456,209 |
| 6 | $21,202,660 |
| 7 | $23,505,852 |

8. Limited Section 205 Filing for an Extension of Contract Term

If ISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the ensuing Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

**<u>ATTACHMENT B</u>**

**Revised RMR Rate Schedule Sheets for**
**Mirant Delta, LLC**
**Pittsburg Power Plant**

# Schedule A

## Unit Characteristics, Limitations and Owner Commitments

**1. Description of Facility**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

| Unit | RMR (Y/N) | Maximum Net Dependable Capacity (includes ISO-paid Upgrade capacity)* | Fuel Type |
|---|---|---|---|
| 1 | N | 150 MW | Natural gas |
| 2 | N | 150 MW | Natural gas |
| 3 | N | 150 MW | Natural gas |
| 4 | N | 145 MW | Natural gas |
| 5 | Y | 312 MW | Natural gas |
| 6 | Y | 317 MW | Natural gas |
| 7 | Y | 682 MW | Natural gas |

For this Facility, the Owner will use MWh in Schedule B to allocate Annual Fixed Revenue Requirements to and among Units. This election shall be applicable to all Facilities containing Reliability Must Run Units subject to any “RMR contract” as defined in the ISO Tariff executed by Owner or any of its affiliates as defined in 18 CFR § 161.2.

* Maximum Net Dependable Capacity shall reflect any transformer or line loss to the Delivery Point.

| Unit | Hours |
|---|---|
| 5 | 0 |
| 6 | 0 |
| 7 | 0 |

**12. Contract Service Limits**

| Unit | Maximum Annual MWh | Maximum Annual Service Hrs | Maximum Annual Start-ups |
|---|---|---|---|
| 1 | N/A | N/A | N/A |
| 2 | N/A | N/A | N/A |
| 3 | N/A | N/A | N/A |
| 4 | N/A | N/A | N/A |
| 5 | 845,580 | 5,031 | 7 |
| 6 | 1,049,229 | 6,189 | 11 |
| 7 | 2,493,376 | 5,620 | 8 |

**13. Owner's Repair Cost Obligation**

Owner's Repair Cost Obligation for the current Contract Year is $1,654,145.

**14. Existing Contractual Limitations and Other Contract Restrictions on Market Transactions**

None.

**15. Applicable UDC Tariff(s)**

PG&E's Schedule S-Standby Service will apply for the provision of auxiliary power wherever the UDC tariff is used for the cost of auxiliary power in these Schedules.

| | | |
|---|---|---|
| 5 | $1,486.25 | $2,972.50 |
| 6 | $1,541.68 | $3,083.36 |
| 7 | $3,009.03 | $6,018.06 |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

3. The Monthly Surcharge Payment is calculated in accordance with Equation B-6 below:

**Equation B-6**

$$\text{Monthly Surcharge Payment (\$)} = \text{lesser of} \left[ \text{Current Monthly Surcharge Payment (\$)} \quad \text{or} \quad \begin{array}{c} \text{100\% of} \\ \text{Sum of all Annual} \\ \text{Capital Item Costs} \\ \text{minus} \\ \text{Cumulative Monthly} \\ \text{Surcharge Payments} \\ \text{Excluding Current} \\ \text{Monthly Surcharge} \\ \text{Payment (\$)} \end{array} \right]$$

4. The Current Monthly Surcharge Payment is calculated in accordance with Equation B-7 below:

**Equation B-7**

$$\text{Current Monthly Surcharge Payment (\$)} = \text{Sum for all hours} \left[ \text{Sum of all Hourly Capital Item Charges (\$/hr)} * \frac{\text{Unit Availability Limit (MW)}}{\text{Maximum Net Dependable Capacity (MW)}} \right]$$

Where:

A. The Hourly Capital Item Charge for each Capital Item approved pursuant to Sections 7.4 or 7.6 is calculated in accordance with Equation B-8 below:

**Equation B-8**

$$\text{Hourly Capital Item Charge} = \text{Hourly Capital Item Rate} * \text{Surcharge Payment Factor}$$

Where:

· Hourly Capital Item Rate is calculated in accordance with Equation B-9 below:

**Table B-3**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 1 | N/A | N/A |
| 2 | N/A | N/A |
| 3 | N/A | N/A |
| 4 | N/A | N/A |
| 5 | $2,972.50 | $2,972.50 |
| 6 | $3,083.36 | $3,083.36 |
| 7 | $6,018.06 | $6,018.06 |

B. <u>Hourly Surcharge Penalty Rate</u>

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

**Table B-4**

| Unit | Capital Item Project No. | Condition 1 Hourly Capital Item Charge | Condition 1 Surcharge Penalty Rate |
|---|---|---|---|
| | | | |

6. <u>Target Available Hours</u>

A Unit's Target Available Hours for each Contract Year are calculated in accordance with the Equation B-10 below:

**Equation B-10**

Target Available Hours (TAH) = Hours in the Calendar Year – (Average Other Outage Hours + Long-Term Planned Outage Hours)

Average Other Outage Hours means the average annual Other Outage Hours for the Unit during the 60-month period ending June 30 of the previous calendar year.

Long-term Planned Outage Hours means the Long-term Planned Outage Hours for the Contract Year scheduled with ISO pursuant to Section 7.2(a). For periods prior to December 31, 1998, Other Outage Hours shall exclude a planned interruption, in whole or in part, in the electrical output of a Unit to permit Owner to perform a major equipment overhaul or inspection or for new construction work, but only if the outage lasted 21 or more consecutive days.

Long-term Planned Outage Hours scheduled for a Contract Year shall be subject to the Long-term Scheduled Outage Adjustment pursuant to Section 8.6 of the Agreement.

The Average Other Outage Hours, Long-term Planned Outage Hours and Target Available Hours for each Unit for the Contract Year are shown in Table B-5 below:

**Table B-5**

| Unit | Average Other Outage Hours | Long-term Planned Outage Hours | TAH |
|---|---|---|---|
| 1 | N/A | N/A | N/A |
| 2 | N/A | N/A | N/A |
| 3 | N/A | N/A | N/A |
| 4 | N/A | N/A | N/A |
| 5 | 1,447 | 2,406 | 4,907 |
| 6 | 917 | 1,974 | 5,869 |
| 7 | 1,080 | 534 | 7,146 |

For the purposes of calculating Target Available Hours for the Contract Year ending December 31, 1999, (a) Average Other Outage Hours shall be calculated using the average annual Other Outage Hours for the Unit during the 60-month period ending December 31, 1998, and (b) Long-term Planned Outage Hours shall be calculated using the hours scheduled for performing Long-term Planned Outages as if the Agreement had become effective on January 1, 1999.

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

**Table B-6**

| Unit | Annual Fixed Revenue Requirement |
|---|---|
| 1 | N/A |
| 2 | N/A |
| 3 | N/A |
| 4 | N/A |
| 5 | $14,584,977 |
| 6 | $18,097,625 |
| 7 | $43,006,970 |

**Table D-0**

| Unit | Number of Prepaid Start-ups | Prepaid Start-up Cost | Prepaid Start-up Charge |
|---|---|---|---|
| 1 | N/A | N/A | N/A |
| 2 | N/A | N/A | N/A |
| 3 | N/A | N/A | N/A |
| 4 | N/A | N/A | N/A |
| 5 | 7 | $32,842.58 | $229,898.09 |
| 6 | 11 | $32,842.58 | $361,268.43 |
| 7 | 8 | $90,307.24 | $722,457.92 |

**2. Start-up Cost**

The cost for a Start-up shall be calculated in accordance with Equation D-1:

**Equation D-1**

$$\underset{(\$)}{\text{Start-up Cost}} = \underset{(\$)}{\text{Start-up Fuel Cost}} + \underset{(\$)}{\text{Start-up Power Cost}} + \underset{(\$)}{\text{Other Start-up Costs}} + \underset{(\$)}{\text{Shutdown Power Cost}}$$

Each component of the Start-up Cost in Equation D-1 is set forth below.

**a. Start-up Fuel Costs**

The Start-up Fuel Cost shall be calculated in accordance with Equation D-1a:

**Equation D-1a**

$$\underset{(\$)}{\text{Start-up Fuel Cost}} = \left[ \left[ \underset{(\text{MMBtu/hr})}{A} * \underset{(\text{hrs})}{x} \right] + \underset{(\text{MMBtu})}{B} \right] * \underset{(\$\text{MMBtu})}{\text{Hourly Fuel Price}}$$

Where:

- "x" equals the number of hours since the Unit ceased operation and cannot exceed "$x_{Max}$".
- The Hourly Fuel Price is calculated pursuant to Schedule C Equation C1-8 for the hour in which the Start-up began.
- The values A, B and $x_{Max}$ for each Unit are given in Table D-1 below.

**ATTACHMENT C**

**Revised RMR Rate Schedule Sheets for**
**Mirant Potrero, LLC**

# Schedule A

### Unit Characteristics, Limitations and Owner Commitments

**1. <u>Description of Facility</u>**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

| Unit | RMR (Y/N) | Maximum Net Dependable Capacity (includes ISO-paid Upgrade capacity)* | Fuel Type |
|---|---|---|---|
| 3 | Y | 206 MW | Natural Gas |
| 4 | Y | 52 MW** | Distillate |
| 5 | Y | 52 MW** | Distillate |
| 6 | Y | 52 MW** | Distillate |

For this Facility, the Owner will use <u>MWh</u> in Schedule B to allocate Annual Fixed Revenue Requirements to and among Units. This election shall be applicable to all Facilities containing Reliability Must Run Units subject to any “RMR contract” as defined in the ISO Tariff executed by Owner or any of its affiliates as defined in 18 CFR § 161.2.

* Maximum Net Dependable Capacity shall reflect any transformer or line loss to the Delivery Point.

** Max Net MWs is dependent on ambient conditions and can vary from 48-55 MW.

**2. <u>Description of RMR Units</u>**

Provide the address(es) of the Units at the Facility and the following tabular information:

Potrero Power Plant
1201A Illinois Street
San Francisco, CA 94107

| Unit | Hours |
|---|---|
| 3 | 0 |
| 4 | 10 minutes |
| 5 | 10 minutes |
| 6 | 10 minutes |

**12. <u>Contract Service Limits</u>**

| Unit | Maximum Annual MWh | Maximum Annual Service Hrs | Maximum Annual Start-ups |
|---|---|---|---|
| 3 | 931,837 | 7,204 | 8 |
| 4 | 26,636 | 611 | 96 |
| 5 | 32,266 | 740 | 111 |
| 6 | 32,770 | 730 | 105 |

<u>Maximum Monthly MWh (Hydroelectric Units only)</u> (N/A)

MWh

| Unit | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |

**13. <u>Owner's Repair Cost Obligation</u>**

Owner's Repair Cost Obligation for the current Contract Year is $435,830.

**14. <u>Existing Contractual Limitations and Other Contract Restrictions on Market Transactions</u>**

None.

**15. <u>Applicable UDC Tariff(s)</u>**

PG&E's Schedule S-Standby Service will apply for the provision of auxiliary power wherever the UDC tariff is used for the cost of auxiliary power in these Schedules.

Where:

- Hourly Availability Rate is calculated in accordance with Equation B-5 below.

**Equation B-5**

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

- For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

**Table B-0**

| Unit | Fixed Option Payment Factor |
|---|---|
| 3 | 0.50 |
| 4 | 0.50 |
| 5 | 0.50 |
| 6 | 0.50 |

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the Contract Year are set forth in Table B-1 below:

**Table B-1**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 3 | $1,178.41 | $2,356.82 |
| 4 | $35.92 | $71.84 |
| 5 | $40.31 | $80.61 |
| 6 | $40.80 | $81.60 |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

by the Small Project Budget shall be the Fixed Option Payment Factor. For all other Capital Items, the Surcharge Payment Factor shall be as agreed to by Owner and ISO. If the Owner and ISO do not agree on the Surcharge Payment Factor, the Surcharge Payment Factor shall equal the Fixed Option Payment Factor, unless the Owner demonstrates in ADR that it would not have installed the proposed Capital Item in accordance with Good Industry Practice but for its obligations to the ISO under this Agreement, in which case the Surcharge Payment Factor shall be as determined in ADR.

· For Units under Condition 2, the Surcharge Payment Factor is 1.

The Hourly Capital Item Charges for the Contract Year are set forth in Table B-2 below:

**Table B-2**

| Unit | Capital Item Project No. | Annual Capital Item Cost | Condition 1 Surcharge Payment Factor | Condition 1 Hourly Capital Item Charge |
|---|---|---|---|---|
| | | | | |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

5. The Monthly Nonperformance Penalty is calculated pursuant to Section 8.5 using the following variables:

A. Hourly Penalty Rate

A Unit's Hourly Penalty Rate for each Contract Year is the lesser of (a) the Unit's Hourly Availability Rate for the Contract Year (calculated pursuant to Item 2.A above), or (b) three times the Unit's Hourly Availability Charge for the Contract Year (as shown in Table B-1 above).

The Hourly Penalty Rates for the Contract Year are set forth in Table B-3 below:

**Table B-3**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 3 | $2,356.82 | $2,356.82 |
| 4 | $71.84 | $71.84 |
| 5 | $80.61 | $80.61 |
| 6 | $81.60 | $81.60 |

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

**Table B-6**

| Unit | Annual Fixed Revenue Requirement |
|---|---|
| 3 | $18,684,026 |
| 4 | $534,068 |
| 5 | $646,958 |
| 6 | $657,067 |

8. Limited Section 205 Filing for an Extension of Contract Term

If ISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the ensuing Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

**Table C1-18**

| Unit | Variable O&M Rate($/MWh) |
|---|---|
| 3 | $3.16 |
| 4 | $0.00 |
| 5 | $0.00 |
| 6 | $0.00 |

**F. ISO Scheduling Coordinator Charge**

The ISO Scheduling Coordinator Charge for each Unit shall be the product of PX Administration Charge as charged under the PX Tariff and the Unit's Billable MWh for the Billing Month.

**G. ISO ACA Charge**

The ISO ACA Charge is the product of the Unit's Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

**<u>ATTACHMENT D</u>**

**Revised RMR Rate Schedule Sheets for**
**Mirant Delta, LLC**
**Contra Costa Power Plant**
**BLACKLINE**

# Schedule A

## Unit Characteristics, Limitations and Owner Commitments

**1. Description of Facility**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

| Unit | RMR (Y/N) | Maximum Net Dependable Capacity (includes ISO-paid Upgrade capacity)* | Fuel Type |
|---|---|---|---|
| 4 | Y | N/A | N/A |
| 5 | Y | N/A | N/A |
| 6 | Y | 337~~335~~ MW | Natural Gas |
| 7 | Y | 337~~336~~ MW | Natural Gas |

For this Facility, the Owner will use MWh in Schedule B to allocate Annual Fixed Revenue Requirements to and among Units. This election shall be applicable to all Facilities containing Reliability Must Run Units subject to any “RMR contract” as defined in the ISO Tariff executed by Owner or any of its affiliates as defined in 18 CFR § 161.2.

* Maximum Net Dependable Capacity shall reflect any transformer or line loss to the Delivery Point. ~~Maximum Net Dependable Capacity values may be affected by operational limitations due to environmental restrictions as described in Section 3 below.~~

**2. Description of RMR Units**

Provide the address(es) of the Units at the Facility and the following tabular information:

Contra Costa Power Plant
3201 Wilbur Avenue
Antioch, CA 94509

**11.** **Minimum Off Time** (does not apply to Units 4 and 5)

| Unit | Hours |
|---|---|
| 4 | 0 |
| 5 | 0 |
| 6 | 0 |
| 7 | 0 |

**12.** **Contract Service Limits**

| Unit | Maximum Annual MWh | Maximum Annual Service Hrs | Maximum Annual Start-ups |
|---|---|---|---|
| 4 | N/A | 7,164 | 3 |
| 5 | N/A | 5~~.~~,916 | 1 |
| 6 | ~~1,040,564~~1,054,735 | 5,617 | 10 |
| 7 | ~~1,162,222~~1,169,308 | 6,168 | 12 |

Maximum Monthly MWh (Hydroelectric Units only) (N/A)

MWh

| Unit | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |

**13.** **Owner's Repair Cost Obligation**

Owner's Repair Cost Obligation for the current Contract Year is $833,911~~1,083,671~~.

**14.** **Existing Contractual Limitations and Other Contract Restrictions on Market Transactions**

None.

**15.** **Applicable UDC Tariff(s)**

PG&E's Schedule S~~-~~Standby Service will apply for the provision of auxiliary power wherever the UDC tariff is used for the cost of auxiliary power in these Schedules.

**Equation B-5**

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

· For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

**Table B-0**

| Unit | Fixed Option Payment Factor |
|---|---|
| 4 | 0.50 |
| 5 | 0.50 |
| 6 | 0.50 |
| 7 | 0.50 |

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the Contract Year are set forth in Table B-1 below:

**Table B-1**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 4 | ~~$54.17~~ | ~~$108.34~~ |
| ~~5~~ | ~~$79.09~~ | ~~$158.19~~ |
| ~~6~~ | ~~$1,917.53~~ | ~~$3,835.07~~ |
| ~~7~~ | ~~$1,906.44~~ | ~~$3.812.88~~ |
| 4 | $41.68 | $83.37 |
| 5 | $60.86 | $121.73 |
| 6 | $1,481.39 | $2,962.78 |
| 7 | $1,461.89 | $2,923.78 |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

- the Owner and ISO do not agree on the Surcharge Payment Factor, the Surcharge Payment Factor shall equal the Fixed Option Payment Factor, unless the Owner demonstrates in ADR that it would not have installed the proposed Capital Item in accordance with Good Industry Practice but for its obligations to the ISO under this Agreement, in which case the Surcharge Payment Factor shall be as determined in ADR.

- For Units under Condition 2, the Surcharge Payment Factor is 1.

The Hourly Capital Item Charges for the Contract Year are set forth in Table B-2 below:

**Table B-2**

| Unit | Capital Item Project No. | Annual Capital Item Cost | Condition 1 Surcharge Payment Factor | Condition 1 Hourly Capital Item Charge |
|---|---|---|---|---|
| | | | | |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

5. The Monthly Nonperformance Penalty is calculated pursuant to Section 8.5 using the following variables:

A. Hourly Penalty Rate

A Unit's Hourly Penalty Rate for each Contract Year is the lesser of (a) the Unit's Hourly Availability Rate for the Contract Year (calculated pursuant to Item 2.A above), or (b) three times the Unit's Hourly Availability Charge for the Contract Year (as shown in Table B-1 above).

The Hourly Penalty Rates for the Contract Year are set forth in Table B-3 below:

**Table B-3**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| ~~4~~ | ~~$108.34~~ | ~~$108.34~~ |
| ~~5~~ | ~~$158.19~~ | ~~$158.19~~ |
| ~~6~~ | ~~$3,835.07~~ | ~~$3,835.07~~ |
| ~~7~~ | ~~$3.812.88~~ | ~~$3.812.88~~ |
| 4 | $83.37 | $83.37 |
| 5 | $121.73 | $121.73 |
| 6 | $2,962.78 | $2,962.78 |
| 7 | $2,923.78 | $2,923.78 |

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

**Table B-6**

| Unit | Annual Fixed Revenue Requirement |
|---|---|
| ~~4~~ | ~~$592,846~~ |
| ~~5~~ | ~~$592,846~~ |
| ~~6~~ | ~~$27,445,057~~ |
| ~~7~~ | ~~$30,653,824~~ |
| 4 | $456,209 |
| 5 | $456,209 |
| 6 | $21,202,660 |
| 7 | $23,505,852 |

8. Limited Section 205 Filing for an Extension of Contract Term

If ISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the ensuing Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

**ATTACHMENT E**

**Revised RMR Rate Schedule Sheets for**
**Mirant Delta, LLC**
**Pittsburg Power Plant**
**BLACKLINE**

# Schedule A

## Unit Characteristics, Limitations and Owner Commitments

**1. Description of Facility**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

| Unit | RMR (Y/N) | Maximum Net Dependable Capacity (includes ISO-paid Upgrade capacity)* | Fuel Type |
|---|---|---|---|
| 1 | N | 150 MW | Natural gas |
| 2 | N | 150 MW | Natural gas |
| 3 | N | 150 MW | Natural gas |
| 4 | N | 145 MW | Natural gas |
| 5 | Y | 312 MW | Natural gas |
| 6 | Y | 317 MW | Natural gas |
| 7 | Y | 682 MW | Natural gas |

For this Facility, the Owner will use MWh in Schedule B to allocate Annual Fixed Revenue Requirements to and among Units. This election shall be applicable to all Facilities containing Reliability Must Run Units subject to any "RMR contract" as defined in the ISO Tariff executed by Owner or any of its affiliates as defined in 18 CFR § 161.2.

* Maximum Net Dependable Capacity shall reflect any transformer or line loss to the Delivery Point. ~~Maximum Net Dependable Capacity values may be affected by operational limitations due to environmental restrictions as described in Section 3 below.~~

| Unit | Hours |
|---|---|
| 5 | 0 |
| 6 | 0 |
| 7 | 0 |

**12. <u>Contract Service Limits</u>**

| Unit | Maximum Annual MWh | Maximum Annual Service Hrs | Maximum Annual Start-ups |
|---|---|---|---|
| 1 | N/A | N/A | N/A |
| 2 | N/A | N/A | N/A |
| 3 | N/A | N/A | N/A |
| 4 | N/A | N/A | N/A |
| 5 | 845,580 | <u>5,031</u>~~3,827~~ | 7 |
| 6 | 1,049,229 | <u>6,189</u>~~5,648~~ | 11 |
| 7 | 2,493,376 | <u>5,620</u>~~4,913~~ | 8 |

**13. <u>Owner's Repair Cost Obligation</u>**

Owner's Repair Cost Obligation for the current Contract Year is $<u>1,654,145</u>~~2,283,811~~.

**14. <u>Existing Contractual Limitations and Other Contract Restrictions on Market Transactions</u>**

None.

**15. <u>Applicable UDC Tariff(s)</u>**

PG&E's Schedule S-Standby Service will apply for the provision of auxiliary power wherever the UDC tariff is used for the cost of auxiliary power in these Schedules.

| | | |
|---|---|---|
| ~~5~~ | ~~$2,718.85~~ | ~~$5,437.70~~ |
| ~~6~~ | ~~$2,344.34~~ | ~~$4,688.69~~ |
| ~~7~~ | ~~$4,610.91~~ | ~~$9,221.82~~ |
| 5 | $1,486.25 | $2,972.50 |
| 6 | $1,541.68 | $3,083.36 |
| 7 | $3,009.03 | $6,018.06 |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

3. The Monthly Surcharge Payment is calculated in accordance with Equation B-6 below:

**Equation B-6**

$$\text{Monthly Surcharge Payment (\$)} = \text{lesser of} \left[ \text{Current Monthly Surcharge Payment (\$)} \quad \text{or} \quad \text{100\% of Sum of all Annual Capital Item Costs minus Cumulative Monthly Surcharge Payments Excluding Current Monthly Surcharge Payment (\$)} \right]$$

4. The Current Monthly Surcharge Payment is calculated in accordance with Equation B-7 below:

**Equation B-7**

$$\text{Current Monthly Surcharge Payment (\$)} = \sum_{\text{all hours}} \left[ \text{Sum of all Hourly Capital Item Charges (\$/hr)} * \frac{\text{Unit Availability Limit (MW)}}{\text{Maximum Net Dependable Capacity (MW)}} \right]$$

Where:

A. The Hourly Capital Item Charge for each Capital Item approved pursuant to Sections 7.4 or 7.6 is calculated in accordance with Equation B-8 below:

**Equation B-8**

$$\text{Hourly Capital Item Charge} = \text{Hourly Capital Item Rate} * \text{Surcharge Payment Factor}$$

Where:

· Hourly Capital Item Rate is calculated in accordance with Equation B-9 below:

**Table B-3**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| 1 | N/A | N/A |
| 2 | N/A | N/A |
| 3 | N/A | N/A |
| 4 | N/A | N/A |
| ~~5~~ | ~~$5,437.70~~ | ~~$5,437.70~~ |
| ~~6~~ | ~~$4,688.69~~ | ~~$4,688.69~~ |
| ~~7~~ | ~~$9,221.82~~ | ~~$9,221.82~~ |
| 5 | $2,972.50 | $2,972.50 |
| 6 | $3,083.36 | $3,083.36 |
| 7 | $6,018.06 | $6,018.06 |

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

**Table B-4**

| Unit | Capital Item Project No. | Condition 1 Hourly Capital Item Charge | Condition 1 Surcharge Penalty Rate |
|---|---|---|---|
| | | | |

6. Target Available Hours

A Unit's Target Available Hours for each Contract Year are calculated in accordance with the Equation B-10 below:

**Equation B-10**

Target Available Hours (TAH) = Hours in the Calendar Year – (Average Other Outage Hours + Long-Term Planned Outage Hours)

Average Other Outage Hours means the average annual Other Outage Hours for the Unit during the 60-month period ending June 30 of the previous calendar year.

Long-term Planned Outage Hours means the Long-term Planned Outage Hours for the Contract Year scheduled with ISO pursuant to Section 7.2(a). For periods prior to December 31, 1998, Other Outage Hours shall exclude a planned interruption, in whole or in part, in the electrical output of a Unit to permit Owner to perform a major equipment overhaul or inspection or for new construction work, but only if the outage lasted 21 or more consecutive days.

Long-term Planned Outage Hours scheduled for a Contract Year shall be subject to the Long-term Scheduled Outage Adjustment pursuant to Section 8.6 of the Agreement.

The Average Other Outage Hours, Long-term Planned Outage Hours and Target Available Hours for each Unit for the Contract Year are shown in Table B-5 below:

**Table B-5**

| Unit | Average Other Outage Hours | Long-term Planned Outage Hours | TAH |
|---|---|---|---|
| 1 | N/A | N/A | N/A |
| 2 | N/A | N/A | N/A |
| 3 | N/A | N/A | N/A |
| 4 | N/A | N/A | N/A |
| 5 | ~~2,651~~1,447 | 2,406 | ~~3,703~~4,907 |
| 6 | ~~1,457~~917 | 1,974 | ~~5,329~~5,869 |
| 7 | ~~1,787~~1,080 | 534 | ~~6,439~~7,146 |

For the purposes of calculating Target Available Hours for the Contract Year ending December 31, 1999, (a) Average Other Outage Hours shall be calculated using the average annual Other Outage Hours for the Unit during the 60-month period ending December 31, 1998, and (b) Long-term Planned Outage Hours shall be calculated using the hours scheduled for performing Long-term Planned Outages as if the Agreement had become effective on January 1, 1999.

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

**Table B-6**

| Unit | Annual Fixed Revenue Requirement |
|---|---|
| 1 | N/A |
| 2 | N/A |
| 3 | N/A |
| 4 | N/A |
| ~~5~~ | ~~$20,136,892~~ |
| ~~6~~ | ~~$24,986,665~~ |
| ~~7~~ | ~~$59,377,997~~ |
| 5 | $14,584,977 |
| 6 | $18,097,625 |
| 7 | $43,006,970 |

**Table D-0**

| Unit | Number of Prepaid Start-ups | Prepaid Start-up Cost | Prepaid Start-up Charge |
|---|---|---|---|
| 1 | N/A | N/A | N/A |
| 2 | N/A | N/A | N/A |
| 3 | N/A | N/A | N/A |
| 4 | N/A | N/A | N/A |
| 5 | 7 | $32,842.58 | $229,898.09 |
| 6 | 11 | $32,842.58 | $361,268.43 |
| 7 | 8 | $90,307.24 | $722,457.92 |
| ~~5~~ | ~~7~~ | ~~$33,489.38~~ | ~~$234,425.63~~ |
| ~~6~~ | ~~11~~ | ~~$33,489.38~~ | ~~$368,383.13~~ |
| ~~7~~ | ~~8~~ | ~~$93,580.31~~ | ~~$748,642.46~~ |

**2. Start-up Cost**

The cost for a Start-up shall be calculated in accordance with Equation D-1:

**Equation D-1**

$$\underset{(\$)}{\text{Start-up Cost}} = \underset{(\$)}{\text{Start-up Fuel Cost}} + \underset{(\$)}{\text{Start-up Power Cost}} + \underset{(\$)}{\text{Other Start-up Costs}} + \underset{(\$)}{\text{Shutdown Power Cost}}$$

Each component of the Start-up Cost in Equation D-1 is set forth below.

**a. Start-up Fuel Costs**

The Start-up Fuel Cost shall be calculated in accordance with Equation D-1a:

**Equation D-1a**

$$\underset{(\$)}{\text{Start-up Fuel Cost}} = \left[\left[\underset{(\text{MMBtu/hr})}{A} * \underset{(\text{hrs})}{x}\right] + \underset{(\text{MMBtu})}{B}\right] * \underset{(\$\text{MMBtu})}{\text{Hourly Fuel Price}}$$

Where:

- "x" equals the number of hours since the Unit ceased operation and cannot exceed "$x_{Max}$".
- The Hourly Fuel Price is calculated pursuant to Schedule C Equation C1-8 for the hour in which the Start-up began.
- The values A, B and $x_{Max}$ for each Unit are given in Table D-1 below.

**ATTACHMENT F**

**Revised RMR Rate Schedule Sheets for**
**Mirant Potrero, LLC**
**BLACKLINE**

# Schedule A

## Unit Characteristics, Limitations and Owner Commitments

**1. Description of Facility**

Provide the following information for all units at the Facility, regardless of their RMR designation status. Information regarding units not designated as Reliability Must-Run Units is required only if and to the extent that the information is used to allocate Facility costs between Reliability Must-Run Units and other units.

| Unit | RMR (Y/N) | Maximum Net Dependable Capacity (includes ISO-paid Upgrade capacity)* | Fuel Type |
|---|---|---|---|
| 3 | Y | 206 MW | Natural Gas |
| 4 | Y | 52 MW** | Distillate |
| 5 | Y | 52 MW** | Distillate |
| 6 | Y | 52 MW** | Distillate |

For this Facility, the Owner will use MWh in Schedule B to allocate Annual Fixed Revenue Requirements to and among Units. This election shall be applicable to all Facilities containing Reliability Must Run Units subject to any "RMR contract" as defined in the ISO Tariff executed by Owner or any of its affiliates as defined in 18 CFR § 161.2.

* Maximum Net Dependable Capacity shall reflect any transformer or line loss to the Delivery Point. ~~Maximum Net Dependable Capacity values may be affected by operational limitations due to environmental restrictions as described in Section 3 below.~~

** Max Net MWs is dependent on ambient conditions and can vary from 48-55 MW.

**2. Description of RMR Units**

Provide the address(es) of the Units at the Facility and the following tabular information:

Potrero Power Plant
1201A Illinois Street
San Francisco, CA 94107

| Unit | Hours |
|---|---|
| 3 | 0 |
| 4 | 10 minutes |
| 5 | 10 minutes |
| 6 | 10 minutes |

**12. Contract Service Limits**

| Unit | Maximum Annual MWh | Maximum Annual Service Hrs | Maximum Annual Start-ups |
|---|---|---|---|
| 3 | 931,837 | 7,204 | 8 |
| 4 | 26,636 | 611 | 96 |
| 5 | 32,266 | 740 | 111 |
| 6 | 32,770 | 730 | 105 |

Maximum Monthly MWh (Hydroelectric Units only) (N/A)

MWh

| Unit | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |

**13. Owner's Repair Cost Obligation**

Owner's Repair Cost Obligation for the current Contract Year is $435,830~~743,195~~.

**14. Existing Contractual Limitations and Other Contract Restrictions on Market Transactions**

None.

**15. Applicable UDC Tariff(s)**

PG&E's Schedule S-Standby Service will apply for the provision of auxiliary power wherever the UDC tariff is used for the cost of auxiliary power in these Schedules.

Where:

- Hourly Availability Rate is calculated in accordance with Equation B-5 below.

**Equation B-5**

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

- For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

**Table B-0**

| Unit | Fixed Option Payment Factor |
|---|---|
| 3 | 0.50 |
| 4 | 0.50 |
| 5 | 0.50 |
| 6 | 0.50 |

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the Contract Year are set forth in Table B-1 below:

**Table B-1**

| Unit | Condition 1 | Condition 2 |
|---|---|---|
| ~~3~~ | ~~$2,009.47~~ | ~~$4,018.94~~ |
| 4 | ~~$61.25~~ | ~~$122.50~~ |
| ~~5~~ | ~~$68.73~~ | ~~$137.46~~ |
| ~~6~~ | ~~$69.58~~ | ~~$139.15~~ |
| 3 | $1,178.41 | $2,356.82 |
| 4 | $35.92 | $71.84 |
| 5 | $40.31 | $80.61 |
| 6 | $40.80 | $81.60 |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

by the Small Project Budget shall be the Fixed Option Payment Factor. For all other Capital Items, the Surcharge Payment Factor shall be as agreed to by Owner and ISO. If the Owner and ISO do not agree on the Surcharge Payment Factor, the Surcharge Payment Factor shall equal the Fixed Option Payment Factor, unless the Owner demonstrates in ADR that it would not have installed the proposed Capital Item in accordance with Good Industry Practice but for its obligations to the ISO under this Agreement, in which case the Surcharge Payment Factor shall be as determined in ADR.

· For Units under Condition 2, the Surcharge Payment Factor is 1.

The Hourly Capital Item Charges for the Contract Year are set forth in Table B-2 below:

**Table B-2**

| Unit | Capital Item Project No. | Annual Capital Item Cost | Condition 1 Surcharge Payment Factor | Condition 1 Hourly Capital Item Charge |
|---|---|---|---|---|
| | | | | |

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.

5. The Monthly Nonperformance Penalty is calculated pursuant to Section 8.5 using the following variables:

A. Hourly Penalty Rate

A Unit's Hourly Penalty Rate for each Contract Year is the lesser of (a) the Unit's Hourly Availability Rate for the Contract Year (calculated pursuant to Item 2.A above), or (b) three times the Unit's Hourly Availability Charge for the Contract Year (as shown in Table B-1 above).

The Hourly Penalty Rates for the Contract Year are set forth in Table B-3 below:

**Table B-3**

| Unit | Condition 1 | Condition 2 |
|---|---:|---:|
| ~~3~~ | ~~$4,018.94~~ | ~~$4,018.94~~ |
| ~~4~~ | ~~$122.50~~ | ~~$122.50~~ |
| ~~5~~ | ~~$137.46~~ | ~~$137.46~~ |
| ~~6~~ | ~~$139.15~~ | ~~$139.15~~ |
| 3 | $2,356.82 | $2,356.82 |
| 4 | $71.84 | $71.84 |
| 5 | $80.61 | $80.61 |
| 6 | $81.60 | $81.60 |

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

**Table B-6**

| Unit | Annual Fixed Revenue Requirement |
|---|---|
| ~~3~~ | ~~$31,860,743~~ |
| 4 | ~~$910,714~~ |
| ~~5~~ | ~~$1,103,218~~ |
| ~~6~~ | ~~$1,120,457~~ |
| 3 | $18,684,026 |
| 4 | $534,068 |
| 5 | $646,958 |
| 6 | $657,067 |

8. Limited Section 205 Filing for an Extension of Contract Term

If ISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the ensuing Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

**Table C1-18**

| Unit | Variable O&M Rate($/MWh) |
|---|---|
| 3 | $~~0.16~~ 3.16 |
| 4 | $0.00 |
| 5 | $0.00 |
| 6 | $0.00 |

**F. ISO Scheduling Coordinator Charge**

The ISO Scheduling Coordinator Charge for each Unit shall be the product of PX Administration Charge as charged under the PX Tariff and the Unit's Billable MWh for the Billing Month.

**G. ISO ACA Charge**

The ISO ACA Charge is the product of the Unit's Billable MWh for the Billing Month and the applicable annual charge for short-term sales under 18 CFR Section 382.201 of the FERC Regulations.

**DRAFT ORDER**

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

[Date]

In Reply refer to:
Docket Nos. ER02-64-000
ER00-198-000

Troutman Sanders LLP
ATTN: Jeffrey M. Jakubiak, Esquire
Attorney for Mirant Delta, LLC
and Mirant Potrero, LLC
401 Ninth Street, NW, Suite 1000
Washington, DC 20004

Dear Mr. Jakubiak:

On November 22, 2002, you filed a settlement agreement among Mirant Delta, LLC, Mirant Potrero, LLC (collectively, Mirant), the California Independent System Operator Corporation (ISO), and Pacific Gas and Electric Company (PG&E) in the above-referenced dockets.

The subject settlement is in the public interest and is hereby approved. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e.

Any amounts collected in excess of the settlement rates or any payment shortfall under the settlement rates shall be paid together with interest computed under section 35.19a of the Commission's Regulations, 18 C.F.R. § 35.19a, in accordance with the terms of the settlement. Within fifteen (15) days after the final refund or shortfall payments are made, Mirant shall file with this Commission a compliance report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present, and settlement rates, the monthly revenue refund or shortfall, and the monthly interest computed, together with a summary of such information for the total refund/shortfall period. Mirant shall furnish copies of the report to all participants in these dockets.

By direction of the Commission.

Magalie R. Salas,
Secretary

cc: All Parties

**NOTICE OF FILING**

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

| | | |
|---|---|---|
| Mirant Delta, LLC | ) | Docket No. ER02-64-000 |
| Mirant Potrero, LLC | ) | |
| | ) | |
| Mirant Delta, LLC | ) | Docket No. ER02-198-000 |
| Mirant Potrero, LLC | ) | |
| | ) | (not consolidated) |

**NOTICE OF FILING**
(November __, 2002)

On November 22, 2002, the following parties submitted an Offer of Settlement in the above-referenced dockets: Mirant Delta, LLC, Mirant Potrero, LLC, the California Independent System Operator Corporation, and Pacific Gas and Electric Company. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission s Rules of Practice and Procedure (18 C.F.R. 385.211 and 385.214). All such motions and protests should be filed on or before _________. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202-208-2222 for assistance).

Magalie R. Salas,
Secretary