

MIRANT CORP  
Form 10-Q  
August 08, 2008  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934**  
For the Quarterly Period Ended June 30, 2008

Or

.. **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934**  
For the Transition Period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-16107

**Mirant Corporation**

(Exact name of registrant as specified in its charter)

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

**20-3538156**  
(I.R.S. Employer)

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**1155 Perimeter Center West, Suite 100,**  
**Atlanta, Georgia**  
(Address of Principal Executive Offices)

Identification No.)  
**30338**  
(Zip Code)

**(678) 579-5000**

(Registrant's Telephone Number, including area code)

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

Indicate by check mark whether the registrant is a large accelerated filer, accelerated filer, non-accelerated filer or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer, non-accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer	<input checked="" type="checkbox"/>	Accelerated Filer	<input type="checkbox"/>
Non-accelerated Filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). " Yes x No

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. x Yes " No

The number of shares outstanding of the Registrant's Common Stock, par value \$0.01 per share, at July 31, 2008, was 185,674,402.

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**Glossary of Certain Defined Terms**

**APSA** Asset Purchase and Sale Agreement dated June 7, 2000, between the Company and Pepco.

**Bankruptcy Code** United States Bankruptcy Code.

**Bankruptcy Court** United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division.

**Baseload Generating Units** Units that satisfy minimum baseload requirements of the system and produce electricity at an essentially constant rate and run continuously.

**CAISO** California Independent System Operator.

**Cal PX** California Power Exchange.

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

**Clean Water Act** Federal Water Pollution Control Act.

**CO2** Carbon dioxide.

**Company** Old Mirant prior to January 3, 2006, and New Mirant on or after January 3, 2006.

**CPUC** California Public Utilities Commission.

**DOE** United States Department of Energy.

**DWR** California Department of Water Resources.

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

**EITF** The Emerging Issues Task Force formed by the Financial Accounting Standards Board.

**EITF 02-3** EITF Issue No. 02-3, *Issues Involved in Accounting for Derivative Contracts Held for Trading Purposes and Contracts Involved in Energy Trading and Risk Management Activities*.

**EOB** California Electricity Oversight Board.

**EPA** United States Environmental Protection Agency.

**EPS** Earnings per share.

**FASB** Financial Accounting Standards Board.

**FERC** Federal Energy Regulatory Commission.

**FIN** FASB Interpretation.

**FIN 39** FIN No. 39, *Offsetting of Amounts Related to Certain Contracts*.

**FIN 45** FIN No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others - An Interpretation of FASB Statements Nos. 5, 57, and 107 and Rescission of FASB Interpretation No. 34*.

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**FIN 46R** FIN No. 46R, *Consolidation of Variable Interest Entities (revised December 2003) an Interpretation of Accounting Research Bulletin No. 51.*

**FIN 47** FIN No. 47, *Accounting for Conditional Asset Retirements an interpretation of FASB Statement No. 143.*

**FIN 48** FIN No. 48, *Accounting for Uncertainty in Income Taxes an interpretation of FASB Statement No. 109.*

**FSP** FASB Staff Position.

**FSP FAS 157-2** FSP FAS No. 157-2, *Effective Date of FASB Statement No. 157.*

**FSP FIN 39-1** FSP FIN No. 39-1, *Amendment of FASB Interpretation No. 39 (FIN 39).*

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**GAAP** Generally accepted accounting principles in the United States.

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

**Hudson Valley Gas** Hudson Valley Gas Corporation.

**Intermediate Generating Units** Units that meet system requirements that are greater than baseload and less than peaking.

**ISO** Independent System Operator.

**LIBOR** London InterBank Offered Rate.

**MC Asset Recovery** MC Asset Recovery, LLC.

**MDE** Maryland Department of the Environment.

**Mirant** Old Mirant prior to January 3, 2006, and New Mirant on or after January 3, 2006.

**Mirant Americas Energy Marketing** Mirant Americas Energy Marketing, LP.

**Mirant Americas Generation** Mirant Americas Generation, LLC.

**Mirant Bowline** Mirant Bowline, LLC.

**Mirant Delta** Mirant Delta, LLC.

**Mirant Energy Trading** Mirant Energy Trading, LLC.

**Mirant Lovett** Mirant Lovett, LLC.

**Mirant MD Ash Management** Mirant MD Ash Management, LLC.

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

**Mirant New York** Mirant New York, LLC.

**Mirant North America** Mirant North America, LLC.

**Mirant NY-Gen** Mirant NY-Gen, LLC.

**Mirant Potomac River** Mirant Potomac River, LLC.

**Mirant Power Purchase** Mirant Power Purchase, LLC.

**MW** Megawatt.

**MWh** Megawatt hour.

**NAAQS** National ambient air quality standard.

**Net Capacity Factor** The average production as a percentage of the potential net dependable capacity used over a year.

**New Mirant** Mirant Corporation on or after January 3, 2006.

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**NOV** Notice of violation.

**NOx** Nitrogen oxides.

**NSR** New source review.

**NYISO** Independent System Operator of New York.

**NYSDEC** New York State Department of Environmental Conservation.

**NYSE** New York Stock Exchange.

**Old Mirant** MC 2005, LLC, known as Mirant Corporation prior to January 3, 2006.

**Orange and Rockland** Orange and Rockland Utilities, Inc.

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**OTC** Over-the-Counter.

**Ozone Season** The period between May 1 and September 30 of each year.

**Peaking Generating Units** Units used to meet demand requirements during the periods of greatest or peak load on the system.

**Pepco** Potomac Electric Power Company.

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

**PJM** PJM Interconnection, LLC.

**Plan** The plan of reorganization that was approved in conjunction with the Company's emergence from bankruptcy protection on January 3, 2006.

**PM2.5** Particulate matter that is 2.5 microns or less in size.

**PPA** Power purchase agreement.

**Reserve Margin** Excess capacity over peak demand.

**RMR** Reliability-must-run.

**RTO** Regional Transmission Organization.

**SAB** SEC Staff Accounting Bulletin.

**SAB 107** SAB No. 107, *Share-Based Payment*.

**SAB 110** SAB No. 110, *Share-Based Payment - an amendment of SAB No. 107*.

**SEC** U.S. Securities and Exchange Commission.

**Securities Act** Securities Act of 1933, as amended.

**SFAS** Statement of Financial Accounting Standards.

**SFAS 5** SFAS No. 5, *Accounting for Contingencies*.

**SFAS 109** SFAS No. 109, *Accounting for Income Taxes*.

**SFAS 128** SFAS No. 128, *Earnings per Share*.

**SFAS 133** SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities (As Amended)*.

**SFAS 141R** SFAS No. 141R, *Business Combinations (Revised 2007)*.

**SFAS 143** SFAS No. 143, *Accounting for Asset Retirement Obligations*.

**SFAS 144** SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*.

**SFAS 157** SFAS No. 157, *Fair Value Measurements*.



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**SFAS 158** SFAS No. 158, *Employer's Accounting for Defined Benefit Pension and Other Postretirement Plans: an amendment of FASB Statements Nos. 87, 88, 106 and 132R.*

**SFAS 159** SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115.*

**SFAS 161** SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities An Amendment of FASB Statement No. 133.*

**SO2** Sulfur dioxide.

**VIE** Variable interest entity.

**Virginia DEQ** Virginia Department of Environmental Quality.

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**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING INFORMATION**

In addition to historical information, the information presented in this Form 10-Q includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements involve known and unknown risks and uncertainties and relate to future events, our future financial performance or our projected business results. In some cases, one can identify forward-looking statements by terminology such as may, will, should, expect, intend, seek, plan, think, anticipate, predict, target, potential or continue or the negative of these terms or other comparable terminology.

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

legislative and regulatory initiatives regarding deregulation, regulation or restructuring of the industry of generating, transmitting and distributing electricity (the electricity industry); changes in state, federal and other regulations affecting the electricity industry (including rate and other regulations); changes in, or changes in the application of, environmental and other laws and regulations to which we and our subsidiaries and affiliates are or could become subject;

failure of our plants to perform as expected, including outages for unscheduled maintenance or repair;

changes in market conditions, including developments in the supply, demand, volume and pricing of electricity and other commodities in the energy markets; changes in credit standards of market participants or the extent and timing of the entry of additional competition in our markets or those of our subsidiaries and affiliates;

increased margin requirements, market volatility or other market conditions that could increase our obligations to post collateral beyond amounts that are expected;

our inability to access effectively the over-the-counter and exchange-based commodity markets or changes in commodity market liquidity or other commodity market conditions, which may affect our ability to engage in asset management and proprietary trading activities as expected, or result in material extraordinary gains or losses from open positions in fuel oil or other commodities;

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

hazards customary to the power generation industry and the possibility that we may not have adequate insurance to cover losses as a result of such hazards;

price mitigation strategies employed by ISOs or RTOs that reduce our revenue and may result in a failure to compensate our generating units adequately for all of their costs;

changes in the rules used to calculate capacity and energy payments;

volatility in our gross margin as a result of our accounting for derivative financial instruments used in our asset management activities and volatility in our cash flow from operations resulting from working capital requirements, including collateral, to support our asset

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management and proprietary trading activities;

our inability to enter into intermediate and long-term contracts to sell power and procure fuel, including its transportation, on terms and prices acceptable to us;

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the inability of our operating subsidiaries to generate sufficient cash flow to support our operations;

our ability to borrow additional funds and access capital markets;

strikes, union activity or labor unrest;

weather and other natural phenomena, including hurricanes and earthquakes;

the cost and availability of emissions allowances;

our ability to obtain adequate supply and delivery of fuel for our facilities;

curtailment of operations because of transmission constraints;

environmental regulations that restrict our ability or render it uneconomic to operate our business, including regulations related to the emission of CO<sub>2</sub> and other greenhouse gases;

our inability to complete construction of emissions reduction equipment by January 2010 to meet the requirements of the Maryland Healthy Air Act, which may result in reduced unit operations and reduced cash flows and revenues from operations;

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

our consolidated indebtedness and the possibility that we or our subsidiaries may incur additional indebtedness in the future;

restrictions on the ability of our subsidiaries to pay dividends, make distributions or otherwise transfer funds to us, including restrictions on Mirant North America contained in its financing agreements and restrictions on Mirant Mid-Atlantic contained in its leveraged lease documents, which may affect our ability to access the cash flows of those subsidiaries to make debt service and other payments; and

the disposition of the pending litigation described in this Form 10-Q.

Many of these risks, uncertainties and assumptions are beyond our ability to control or predict. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by cautionary statements contained throughout this report. Because of these risks, uncertainties and assumptions, you should not place undue reliance on these forward-looking statements. Furthermore, forward-looking statements speak only as of the date they are made.

**Factors that Could Affect Future Performance**

We undertake no obligation to update publicly or revise any forward-looking statements to reflect events or circumstances that may arise after the date of this report.

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In addition to the discussion of certain risks in Management's Discussion and Analysis of Results of Operations and Financial Condition and the accompanying Notes to Mirant's unaudited condensed consolidated financial statements, other factors that could affect our future performance (business, financial condition or results of operations and cash flows) are set forth in our 2007 Annual Report on Form 10-K.

### **Certain Terms**

As used in this report, we, us, our, the Company and Mirant refer to Mirant Corporation and its subsidiaries, unless the context requires otherwise. Also, as used in this report we, us, our, the Company and Mirant refer to Old Mirant prior to January 3, 2006, and to New Mirant or after January 3, 2006.

**Table of Contents****MIRANT CORPORATION AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)**

	Three Months Ended June 30, 2008		Six Months Ended June 30, 2007	
	2008	2007	2008	2007
	(in millions, except per share data)			
Operating revenues (including unrealized losses of \$911 million, \$78 million, \$1.213 billion and \$418 million, respectively)	\$ (393)	\$ 542	\$ (91)	\$ 893
Cost of fuel, electricity and other products (including unrealized (gains) losses of \$(37) million, \$13 million, \$(36) million and \$(22) million, respectively)	166	229	406	504
<b>Gross Margin</b>	<b>(559)</b>	313	<b>(497)</b>	389
<b>Operating Expenses:</b>				
Operations and maintenance	203	199	369	348
Depreciation and amortization	40	32	73	64
Impairment losses		175		175
Gain on sales of assets, net	(12)	(22)	(16)	(24)
Total operating expenses	231	384	426	563
<b>Operating Loss</b>	<b>(790)</b>	(71)	<b>(923)</b>	(174)
<b>Other Expense (Income), net:</b>				
Interest expense	48	63	100	130
Interest income	(21)	(34)	(53)	(53)
Other, net	5	(1)	6	(3)
Total other expense, net	32	28	53	74
<b>Loss From Continuing Operations Before Reorganization Items, Net and Income Taxes</b>	<b>(822)</b>	(99)	<b>(976)</b>	(248)
Reorganization items, net		(1)		(2)
Provision (benefit) for income taxes	10	(15)	10	(30)
<b>Loss From Continuing Operations</b>	<b>(832)</b>	(83)	<b>(986)</b>	(216)
<b>Income From Discontinued Operations, net</b>	<b>49</b>	1,339	<b>51</b>	1,420
<b>Net Income (Loss)</b>	<b>\$ (783)</b>	\$ 1,256	<b>\$ (935)</b>	\$ 1,204
<b>Basic EPS:</b>				
Basic EPS from continuing operations	\$ (4.14)	\$ (0.32)	\$ (4.72)	\$ (0.84)
Basic EPS from discontinued operations	0.24	5.23	0.25	5.54
Basic EPS	\$ (3.90)	\$ 4.91	\$ (4.47)	\$ 4.70
<b>Diluted EPS:</b>				
Diluted EPS from continuing operations	\$ (4.14)	\$ (0.32)	\$ (4.72)	\$ (0.84)
Diluted EPS from discontinued operations	0.24	5.23	0.25	5.54

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Diluted EPS	<b>\$ (3.90)</b>	\$ 4.91	<b>\$ (4.47)</b>	\$ 4.70
Weighted average shares outstanding	<b>201</b>	256	<b>209</b>	256
Effect of dilutive securities				
Weighted average shares outstanding assuming dilution	<b>201</b>	256	<b>209</b>	256

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

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**MIRANT CORPORATION AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**

	At June 30, 2008 (Unaudited)	At December 31, 2007
	(in millions)	
<b>ASSETS</b>		
<b>Current Assets:</b>		
Cash and cash equivalents	\$ 2,699	\$ 4,961
Funds on deposit	572	304
Receivables, net	876	589
Price risk management assets	3,206	687
Inventories	345	357
Prepaid expenses	126	142
<b>Total current assets</b>	<b>7,824</b>	<b>7,040</b>
<b>Property, Plant and Equipment, net</b>	<b>2,873</b>	<b>2,590</b>