

Mirant Lovett, Inc.
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October 19, 2006

Hon. Jaclyn A. Brillling
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223



Re: Notice of Retirement of Lovett Generating Station Units 3 and 5

Dear Secretary Brillling:

Pursuant to the Commission's *Generating Unit Retirement Order*,¹ Mirant Lovett, LLC ("Mirant Lovett") hereby provides notice that it intends to discontinue operations of Units 3 and 5 at the Lovett Generating Station on April 30, 2007.

Operations at Unit 5 are being discontinued consistent with the requirements of the Consent Decree dated June 11, 2003 ("Consent Decree") between Mirant Lovett, the New York Attorney General's office and the New York State Department of Environmental Conservation ("NYSDEC").² Operations at Unit 3 are being discontinued because it is uneconomic to continue to run Unit 3 if operations at Unit 5 are discontinued. On October 18, 2006, Mirant Lovett received approval from the United States Bankruptcy Court for the Northern District of Texas ("Bankruptcy Court") to discontinue operation of these units.

Mirant Lovett continues to explore alternatives to discontinuing operation of these facilities and will continue to discuss with the Attorney General's office and the NYSDEC certain alternative control technologies that may allow Mirant Lovett to continue operations in lieu of being required to discontinue operations under the Consent Decree. If Mirant Lovett is successful in finding such alternatives, Mirant Lovett may rescind this notification prior to April 30, 2007.

In conformance with the requirements of the *Generating Unit Retirement Order*, Mirant Lovett is also providing a copy of this notice to the New York Independent System Operator, Inc. ("NYISO"). The *Generating Unit Retirement Order* also requires Mirant Lovett to provide a copy of this notice to each "affected T&D utility," but provides no clear guidance as to how this term should be construed.

¹ Case 05-E-0889, Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Generating Unit Retirements, *Order Adopting Notice Requirements for Generating Unit Retirements* (issued and effective December 20, 2006).

² The Consent Decree requires Unit 4 to install certain environmental controls or discontinue operations by April 30, 2008. To the extent Mirant Lovett determines to discontinue operations at Unit 4, Mirant Lovett will provide further notice consistent with the Generator Retirement Rule.

In its recent *Comprehensive Reliability Plan*,³ NYISO found that the Lovett facility provides needed generating capacity to NYISO Zone G and Southeast New York ("SENY"). That report also found that the reactive capacity of the Lovett facility increases transfer limits across the UPNY/CE and I-J transmission interfaces by approximately 200 MW and that the Lovett facility improves the voltage performance of the transmission system in the lower Hudson Valley. NYISO also concluded that the Lovett facility improves the Loss of Load Expectation ("LOLE") of the New York Control Area, contributes to LOLE criteria being maintained throughout the entire 10-year study period, and helps maintain a more diverse fuel mix.⁴

Mirant Lovett would note that this assessment of the benefits of its facilities is clearly a conservative one, since NYISO's analysis was predicated on peak Control Area demands of only 32,400 MW in 2006, growing to 33,740 MW in 2009.⁵ In fact, actual peak demands in the New York Control Area have already exceeded NYISO's forecasted peak for 2009, reaching a record peak of 33,879 MW on August 1, 2006.

In light of these facts, Mirant Lovett believes that retirement of its facilities will affect not only Orange & Rockland Utilities, Inc., with which Mirant Lovett is directly connected, but also Central Hudson Gas & Electric Corporation, the Consolidated Edison Company of New York, Inc., the Long Island Power Authority, and the New York State Electric & Gas Corporation. Accordingly, copies of this notice have also been provided to each of these utilities.

Please contact me at (508) 833-8522 ext. 5911 if you have any questions about this notice.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff R. Perry". The signature is fluid and cursive, with the first name "Jeff" and last name "Perry" clearly distinguishable.

Jeffrey R. Perry
President
Mirant Lovett, LLC

³ NYISO, *The Comprehensive Reliability Plan 2005: A Long-term Reliability Assessment of New York's Power System* (Aug. 22, 2006).

⁴ Comprehensive Reliability Plan at 43.

⁵ Comprehensive Reliability Plan at 37.